

ZB# 99-42

Frank Maurice

65-1-16.12

Prelim,

Sep. 27, 1999.
Notice to Sentinal
Public Hearing?

~~Nov 2~~
~~October 2, 1999~~
November 8, 1999.

Action tabled
to 11/22/99.

Nov. 22nd 1999
Variances
Denied

Refund: \$94.00
Public Hearing
Notice to Sentinal 1/11/2000
Jan. 24, 2000.

Referred back to P.B.
for consideration
of roadway - Shared.
Driveway are illegal.
Adjourned. to
2/14/00. - no
quorum.

February 28, 00.
Denied

#99-42 - Maurice, Frank

65-1-16.12 -





APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Maurice, Frank

FILE# 99-42

RESIDENTIAL: \$50.00
INTERPRETATION: \$150.00

COMMERCIAL: \$150.00

AREA X

USE

APPLICATION FOR VARIANCE FEE \$ 50.00

ESCROW DEPOSIT FOR CONSULTANT FEES \$ 300.00

DISBURSEMENTS:

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING-PER PAGE 9/27/99 - 3 \$ 13.50
2ND PRELIMINARY- PER PAGE ... 11/22/99 - 5 \$ 22.50
3RD PRELIMINARY- PER PAGE ... 1/24/00 - 11 \$ 49.50
PUBLIC HEARING - PER PAGE ... 2/28/00 - 13 \$ 58.50
PUBLIC HEARING (CONT'D) PER PAGE \$
TOTAL \$ 144.00

ATTORNEY'S FEES: \$35.00 PER MEEETING

PRELIM. MEETING: 9/27/99 \$ 35.00
~~2ND PRELIM. 11/22/99 \$ 35.00~~
~~3RD PRELIM. 1/24/00 \$ 35.00~~
PUBLIC HEARING 2/28/00 \$ 35.00
PUBLIC HEARING (CONT'D) \$
TOTAL \$ 140.00

MISC. CHARGES:

..... \$
TOTAL \$ 284.00

LESS ESCROW DEPOSIT \$ 300.00
(ADDL. CHARGES DUE) \$
REFUND DUE TO APPLICANT .. \$ 14.00

*paid ck# 5886
8/23/99.
paid ck# 2728
9/13/99.*

Date 12/20, 1961

TOWN OF NEW WINDSOR

**TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553**

TO Michael Reis Realtors DR.
48 Willow Parkway, N.W.

DATE Re: ZBA #99-42

| DATE | REMARKS | CLAIMED | ALLOWED |
|---------------------------------------|-------------------------------------|----------|---------|
| 12/20/99 | Refund of Escrow Dep. - Re: Maurice | \$194.00 | |
| Approved: Patricia C. Banhart ZBA. | | | |

MICHAEL REIS
48 WILLOW PKWY.
NEW WINDSOR, NY 12553

1-108/280

5886

DATE 8/23/99

PAY TO THE
ORDER OF

Town of New Windsor

\$ 50.00

FIFTY AND 00/100

DOLLARS  Security features
included.
Details on back.

Marine Midland Bank 

WILLS GATE OFFICE
ROUTE 94 & TEMPLE HILL ROAD
WILLS GATE, NEW YORK 12584

FOR MAURICE - LOT - ZBA #99-42

Michael Reis

⑆028001081⑆078740663⑆ 5886

M. REIS REALTORS

MICHAEL REIS
PO BOX 472 77 E. MAIN STREET
WASHINGTONVILLE, NY 10992
(914) 496-5970 / 562-5420

| EXPLANATION | AMOUNT |
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50-7099
2219

2798

CHECK
AMOUNT

DOLLARS

TO THE ORDER OF

DESCRIPTION

CHECK NO.

Town of New Windsor

ZBA FEES - MAURICE

2798

\$ 300.00



WASHINGTONVILLE OFFICE
WASHINGTONVILLE, NY 10992

Michael Reis

42

⑆002798⑆ ⑆221970993⑆

2164017259⑆

SECURITY FEATURES: MICRO PRINT BORDER - COLORED BACKGROUND - WATERMARK & CARBON STRIP ON REVERSE SIDE - MISSING FEATURES AND DATES A COPY

In the Matter of the Application of

FRANK MAURICE

**MEMORANDUM OF
DECISION DENYING
AREA VARIANCES**

#99-42.

WHEREAS, FRANK MAURICE, P. O. Box 366, Vails Gate, N. Y. 12584, has made application before the Zoning Board of Appeals for a 68.8 ft. lot width and 28.8 ft. street frontage variance to construct a single-family dwelling on Mt Airy Road in an R-3; and

WHEREAS, a public hearing was held November 22, 1999; reconvened on November 22, 1999 when a decision to deny the variance was made. On January 10, 2000 members of the ZBA entertained a motion to rescind the denial of 11/22/99 based upon new information; and a new public hearing was held on January 24, 2000, and adjourned to February 14, 2000; decision to deny was then rendered on 28th day of February, 2000 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant was represented by Michael Reis, Realtor; and

WHEREAS, there were five spectators appearing at the public hearing; and

WHEREAS, two spoke in opposition to this Application; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing denying the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) The property is a vacant lot in a neighborhood of one-family homes, this lot having been created by the subdivision of a larger lot some years ago. The larger lot has had a house erected upon it but the Zoning Law requirements for lot width and street frontage have changed since the creation of the smaller lot and the Applicant now seeks variances in order to construct upon the smaller or vacant lot which is the subject of this Application.

(b) It appears that even if the two lots were still combined, no subdivision having taken place, the combined lots would meet the present requirement for road frontage but would not meet the requirement for lot width because the Zoning Local Law as it presently exists measures lot width at the front yard set back which is different from the way its was previously measured.

(c) When the lot was originally subdivided, an easement was created for the use of a common driveway. Since the granting of that subdivision, the legal requirements of the Town of New Windsor have changed and multiple lots would now need to be serviced by a private road built to private road specifications. to be built.

(d) Because of the height differential between this property and the neighboring properties, it appears that in order to utilize the subject property it would be necessary to create a "flip" on the side adjoining the property in order to support a driveway or private road. Based on neighbors' complaints, it appears that the existing topography lends itself to poor drainage and that any change in that topography could result in drainage and/or septic effluent.

WHEREAS, The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The requested variances will produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties because if the variances are granted the property may, and apparently will have to in order utilize the property, put in a private road or driveway which will necessarily mean that the topography of the area adjoining the neighboring property will have to be altered and will change the drainage of the area as well, all to the detriment of that neighboring property.

2. There is now no other feasible method available to the Applicant which can produce the benefits sought. (See paragraph 5 below).

3. The variance requested is substantial in relation to the Town regulations and is not warranted.

4. The requested variances will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district. (See paragraph 1 above).

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created and should not be allowed. The Applicant created the problem by subdividing the property and by not applying for a building permit within the three-year "grandfather" time allowed by the Town Law.

6. The benefit to the Applicant, if the requested variances are granted, does not outweigh the detriment to the health, safety and welfare of the neighborhood or community.

7. The requested variances as previously stated is not appropriate and although if granted

it would be adequate to allow the Applicant relief from the requirements from the Zoning Local Law. A granting would not, at the same time, preserve and protect the character of the neighborhood and health, safety and welfare of the community. See paragraph 1 above.

8. The interests of justice will not be served by allowing the granting of the requested area variances. See paragraph 1 above.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor DENY a request for a 68.8 ft. lot width and 28.8 ft. street frontage variances to construct single-family dwelling on Mt. Airy Road in an R-3 zone.

BE IT FURTHER

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: May 22, 2000.


Chairman

INTER-OFFICE CORRESPONDENCE

TO: ATTORNEY KRIEGER 

FROM: PAT

SUBJECT: MAURICE, FRANK

DATE: MARCH 23, 2000

Following your request, I reviewed the Frank Maurice file #99-42 and find the following:

February 28, 2000 – DECISION TO DENY APPLICATION 3-0;

February 14, 2000 – Public Hearing continued from 1/24/00.
Not enough members present for quorum.
Matter adjourned to 2/28/00;

January 24, 2000 - Although many spectators spoke in opposition, there were not sufficient members present for quorum to vote on application; Matter adjourned to February 14, 2000;

Mike Reis requests that a new public hearing be held based on new information.

January 10, 2000 - Members of ZBA entertained a motion to rescind denial of 11/22/99 based upon new information submitted.

November 22, 1999 – Public Hearing reconvened from 11/08/99.
DECISION TO DENY APPLICATION 4-0.

November 08, 1999 - Initial Public Hearing held. Four spectators present. All oppose application. Vote tabled by ZBA for next meeting of 11/22/99. Mike Reis was to obtain further information regarding status of previous approval of Subdivision by P.B.



Date 3/3/00, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth DR.
168 N. Drury Lane
Newburgh, N.Y. 12550

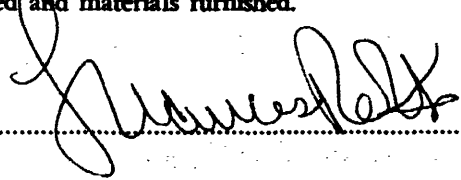
| DATE | | | CLAIMED | ALLOWED |
|------|--|--------------------|---------------|---------|
| | | Zoning Board Mtg | 75 00 | |
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| | | HZ Development - 3 | | |
| | | Borgia - 4 | | |
| | | Locke - 3 | | |
| | | Petro Metals - 8 | | |
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STATE OF NEW YORK,
TOWN OF NEW WINDSOR

} ss.

I hereby certify, that the items of this account are correct; that the disbursements and services charged therein have in fact been made and rendered, and that no part thereof has been paid or satisfied, that the amount herein mentioned is in full settlement for all services rendered and materials furnished.

Sign Here



No.

Town of New Windsor

Nature

Amount Claimed \$

Amount Allowed \$

Filed

I hereby certify that at a meeting of
said Town Board held at the office of the
Town Clerk on the day
of, 19.....

the within claim was audited and allowed
for the sum of

\$

Clerk

February 28, 2000

5

MAURICE, FRANK

MR. TORLEY: With the members of the board's permission, I move the Frank Maurice public hearing to the end of the list, therefore, we'll move to the next.

MAURICE, FRANK

Mr. Michael Reis appeared before the board for this proposal.

MR. TORLEY: This is a public hearing which was continued from January 24, which is requested by Frank Maurice. Request for 68.8 ft. lot width and 28.8 ft. street frontage to construct single-family dwelling on Mt. Airy Road in an R-3 zone.

MR. REIS: Thank you. I'm here on behalf of Frank and Leah Maurice. We started this about four months ago. And thank you for your patience.

MR. TORLEY: Back in the last millennium.

MR. REIS: The original objections to the requested variances was a potential creating of a cliff on the adjacent property and creating a standing water in the long driveway in the property to the rear. We have since determined that we now have an easement that accesses both lots. And the easement meanders through the driveways of both properties, the bulk of the easement is on the non-improved lot. Since we've got objections because we have the easement that we were not aware of in the beginning, we're requesting that the variances be passed. If you have any questions?

MR. TORLEY: Mike, have you had any other information or time to think about whether this now requires a private road?

MR. BABCOCK: Yes, it does.

MR. TORLEY: And the private road would be, it's a 50 foot width?

MR. BABCOCK: Fifty foot easement.

MR. TORLEY: Thirty foot pavement?

MR. BABCOCK: No, I think it's 18 foot pavement with three foot shoulders.

MR. TORLEY: And swales, et cetera?

MR. BABCOCK: Yes.

MR. KANE: But having the easement go from the street to the property in the back does not relieve them from getting a variance on that lot?

MR. BABCOCK: No.

MR. TORLEY: Nor can it relieve them from the private road statute.

MR. KANE: Just wanted to check.

MR. REIS: Correct me if I'm wrong, Mike, we're going to attack the private road issue as a separate issue after we get the variance?

MR. BABCOCK: That's what they're saying, basically, that's how I'm understanding it anyway.

MR. KRIEGER: Yeah, it's an independent requirement.

MR. BABCOCK: Right.

MR. KRIEGER: Which is not affected either way but in any way but whatever action this board takes still exists or doesn't exist according to the law.

MR. TORLEY: Nor do we have any power to vary that.

MR. KRIEGER: This board can't vary it, it can't change it, it can't have anything to do with it, it's a separate issue.

MR. TORLEY: I'd like to reopen it back to the public for comments. Gentlemen, ladies?

MR. RICHARD THORPE: I have a question, even though it don't directly affect me, but I can see where it would affect both Mr. Maurice and Mr. McCullough, assuming you gave the variance and in order to comply with the building codes of a private road, you're talking about considerable expense putting the driveway in, assuming

you wanted to comply with the building code. Would you then have, Mr. McCullough have to pay half that cost so by creating the variance you indirectly would be affecting him with a great deal of money possibly?

MR. TORLEY: I would, not knowing, not being a lawyer nor seeing the actual deeds stipulations I have no opinion on that. I do have a question as to whether that road frontage with the road width and swales, et cetera, whether that would get us back into the problem of the formation of the cliff on the property margin?

MR. THORPE: Might happen too, yeah.

MR. THORPE: You know the answer to that, Mike?

MR. REIS: This is all hypothetical situations, I think that we'll have to cross that road when we get to it, Dick, but right now, we're dealing with a substandard frontage, front yard and that's the only issue right now. Okay, once we go to the planning board and the building inspector and the Town to create this private road, however it's going to be, that will be another issue and I can't anticipate how we're going to handle that right now.

MR. TORLEY: How big is the, forgive me if I'm, how big is the easement?

MR. BABCOCK: Thirty feet. On your property you have a 30 foot easement?

MR. MC CULLOUGH: Yes, it is, that's correct.

MR. BABCOCK: I think it's a 30 foot easement that splits the property line.

MR. MC CULLOUGH: Fifteen and fifteen, that's correct.

MR. TORLEY: So the full width of the right-of-way then or the road would have to be 45 or 35 feet on the applicant's property line, if his neighbor does not grant him anymore of an easement, it's got to be 50 foot width as far as the total width?

MR. BABCOCK: Right.

MR. TORLEY: He's got 15 on one side, he's got to go 35 feet on the other side.

MR. BABCOCK: That's correct.

MR. TORLEY: What's the total road frontage?

MR. BABCOCK: On your lot?

MR. REIS: Lot that we're requesting a variance is 33.14 feet.

MR. TORLEY: So you have 33 feet, if the code says you have to have a 50 foot width and you only have 15 foot right on your neighbor's side, how can you have 50 feet on yours, when you only have 30, you can't fit the private road right-of-way requirements on your property.

MR. REIS: That's right.

MR. TORLEY: And that right-of-way width, et cetera, is again something that's out of our jurisdiction to say anything about.

MR. BABCOCK: You can't vary it, it's a local law.

MR. REIS: Again, we're talking about, I keep repeating it, we have two existing lots, okay, that were created back in the early '80's, the laws have changed since, as far as the applicant's concerned right now, we're not changing anything, I believe it's going to come down to a judicial decision and again, it's all hypothetical and all conjecture. I don't know how it's going to be resolved but all we're looking for is the existing variances as what's stated. And I don't see--

MR. KANE: Is there an existing variance on lot 3 on their road frontage, the other flag lot?

MR. BABCOCK: No.

MR. REIS: That was never an issue.

MR. KANE: Because?

MR. BABCOCK: Because they built it within the time limits.

MR. REIS: We just want the board to make their decision based on what exists and not anticipating what could or what will happen because we don't know yet what's going to happen. And as it is right now, there's no impact to the neighbors, consequently, there's no reason to be denied.

MR. MC DONALD: How did the cliff problem go away?

MR. REIS: There's an existing easement that's being utilized, okay, by the existing house and how it's going to be, how it will be affected remains to be seen, okay, they're bringing up viable situations that I just don't have answers for, nobody has them, we're not changing the lay of the land, we're not creating any additional runoffs or hazards, we're not creating any cliffs, just asking for the existing variance.

MR. THORPE: I don't understand once you grant that variance, assuming you do, in order to comply with the rest of the law for a private driveway, you're going to have to change the existence of the land, thus possibly creating what we started out originally with the cliff, so I mean, how can you, you say only put one thing in front of you, you've got to be blind, then you're not taking into consideration what else is going on around you.

MR. MC CULLOUGH: That's one issue, what about creating a private driveway that's a private road that's definitely going to affect other people, me, and from what I understand, I have to give approval for that, you know, am I going to pay for that, no.

MR. REIS: I certainly hope so.

MR. MC CULLOUGH: Definitely not. I've been here I don't know how many weeks in a row and it's the same issues over and over and over again.

MR. TORLEY: Sir, this is the first time we've had enough people on the board.

MR. MC CULLOUGH: I don't mean it that way, it's the same things we're saying over and over, I mean, there's a lot of problems here, you know, and like I said before, I mean, there's a lot of things going on with Dean Hill and the area around it, there's codes and laws that have to be followed, you know, I mean, before you know it, we're going to be Manhattan living on top of each other, I mean, that's why there's laws, you know.

MR. TORLEY: I have one question that's come up and I would defer to my attorney for any indications of an answer on that, if hypothetical we grant the variance and put in the private road, I mean you're now living on a private road, how does that affect any of his status, he's now no longer fronting on the road, he has a private road, I know we had trouble with the banks on private roads and I would not know whether his mortgage might have problems, nor do I have any legal opinion on it because I'm not a lawyer. I'm sure Andy can.

MR. KRIEGER: I can't say without for certain without seeing the mortgage and it's, he not being an applicant.

MR. TORLEY: It's a hypothetical question, I would not ask you for any hard and fast opinion, I was just asking whether there's such a situation could arise, not whether it would--

MR. REIS: What's the question, Larry?

MR. KRIEGER: Well, let me put it another way. As I understand, the neighbor to the rear got his mortgage based on access to a public road driveway to a public road. Now, will it adversely affect his mortgage if his access changes to a public road, access to a public road to access to a private road or put another way, would it enable the bank to call his mortgage on account of that change? On the one hand, I don't think a bank could successfully do that. On the other hand,

would they try, thus occasioning a considerable amount of expense and difficulty to the person who resists that, I wouldn't want to hazard a guess ever as to what a bank may or may not do, that would be the height of foolishness.

MR. TORLEY: This occurred to me since I live on a private road, I know the troubles we have gone through with banks in that regard.

MR. BABCOCK: Basically that question comes up through title insurance, we do that, we answer that question daily for title insurance companies.

MR. KRIEGER: Sure, but this is an interesting point, he got presumably when he bought the property, he had title insurance, the title insurance is good as of the time he bought the property. Now, if there's a subsequent change, you can't turn around to the title insurance company and hold them accountable in any way, shape or form cause they're going to say hey, we granted you title insurance as it existed then so it's between you and the bank.

MR. BABCOCK: If there was a new title search done that could be, that would make it different in answer to Larry's question.

MR. KRIEGER: Which actually in turn gives rise to another question, and that is even if he doesn't have difficulty with his existing mortgage, but when he turns around to either refinance or turns around to sell it, would he then have acquired a problem which did not exist at the time when he purchased the property which he presumably didn't bargain for, I use that as a technical term, potentially, yes and again, I wouldn't want to hazard a guess as to what hypothetical title company or hypothetical bank may or may not do. But as a group, they tend to be a very cautious lot, certainly they would take into, it's likely that a title insurance or bank would take into account that private road and that would change his situation considerably or change the situation for the buyer which would directly affect the sale of the property so it affects him as a seller even though he's not

applying for the mortgage.

MR. TORLEY: One of our criteria, how does it affect the surrounding property owner's rights?

MR. THORPE: Is there another alternative, Michael, am I correct that, Mike Babcock, is there going to be a Town road just below that driveway going through there?

MR. BABCOCK: Yes.

MR. THORPE: Would that not solve your problem if you went off the Town road and put a driveway into the Town road?

MR. REIS: Hypothetically, sure, it could, Dick, yes, it could. The problem with that is that to accommodate that, you'd have to cross over Mr. and Mrs. McCullough's driveway and obviously, you'd have to get an okay from the developer to access and have a curb cut from his driveway.

MR. THORPE: That's a Town road, am I correct, Michael?

MR. BABCOCK: Yeah, it's going to be a Town road, it's been.

MR. REIS: I'm sorry, a Town road, but you'd have to get a curb cut, so it's another series of issues that we'd have to overcome.

MR. THORPE: It's an alternative, though.

MR. REIS: Yeah, it's another alternative. Can I make an observation here, Mr. Chairman?

MR. TORLEY: Sure.

MR. REIS: Prior to this variance tonight, we passed a request for a variance by a three to one vote, positive for a non-existing structure on an existing lot and we turned the law upside down to accommodate the applicant because of a supposed economic hardship, very little challenge, no rebuttal from the public and we passed it. We have said here on I don't know, I have been on

the board now three or four years and we have tremendous public objection to several, not, maybe not several, I don't like to, I'm typically very conservative, but I have sat here with this board, I'm wearing two hats tonight trying to help the applicant, sitting on the board so I'm trying to make an example here of what we have accomplished in helping the general public in utilizing their properties. We have had tremendous objection by the public and we still gave people their variances to accommodate use to the highest and best use, sometimes to the detriment of their neighbors. For instance, the school on 94, the pre-school, tremendous public objection by many, many people and we voted for it because we felt that it was a highest and best use in spite of the objections. There was another site and that I can set an example, it was on 9W, it was a used car, it was an apartment, it was an auto shop, I forget the name of the applicant, but we used the vernacular, we stuffed a whole bunch of stuff in a ten pound bag, very little objection, but we changed the rules upside down to accommodate the user for something that he was using without necessary code compliance. We got an applicant here that's looking for a very simple variance that's affecting two people, probably not going to affect them at all, I can't say they're legitimate rebuttals by the neighbors, I'm not challenging that, this is an existing lot, it's over I think required lot there is 30,000 feet. Mike, we've got 1.2 acres, we've got almost 30 percent over and above what's required and this guy's going through hoops to try to utilize his property and I just don't understand why we're having such a problem granting it.

MR. TORLEY: Is there anything else, final chance? Okay.

MR. MC CULLOUGH: We also had one denied tonight also on Dean Hill, am I correct?

MR. BARNHART: Yes.

MR. TORLEY: Okay, and if there's no other comments from the board, I mean from the public, I'm going to now move to close the public hearing and I move we

close the public hearing.

MR. MC DONALD: Second it.

ROLL CALL

MR. MCDONALD AYE

MR. KANE AYE

MR. TORLEY AYE

MR. TORLEY: Public hearing part is now closed. I will turn it back to the board. Does anybody have anything else they'd like to say?

MR. MC DONALD: I may be out of line but as a member of the board, you know, you've made mention to some of the things that we've done in the past of which I was not a member and I don't know what happened and I really don't care what happened. My primary concern in this particular case is we're going to make a private road and we're going to have this man pay for half of it and that's what I'm worried about.

MR. REIS: I know that is.

MR. MC DONALD: This is my biggest concern, so what the board did prior to, you know, I'm really not and I--

MR. TORLEY: We never set a precedent for ourselves, every applicant is by its very nature unique, if it wasn't unique, we wouldn't see it, that's one of the criteria so there are no precedents.

MR. MC DONALD: I don't know what the board did in the past because I wasn't a member, but I know for right now, I'm worried about tonight and what I've heard the last time, the cliff thing, this was my big concern the last time, that's why I voted no. Okay, you say that's resolved, but now the, in my own mind you say we can separate this, I can't in my own mind separate the fact that if I grant this approval, vote to grant this variance, I'm going to make this man pay for a private driveway and I just, just doesn't fit to me.

MR. TORLEY: Gentlemen?

MR. REIS: Can I respond to that?

MR. TORLEY: No, I'd just like to, I would entertain a motion in this matter so we can lay it to rest one way or the other.

MR. KANE: One final statement?

MR. REIS: Yeah, let me comment on that, please, Larry. The applicant doesn't want to create any hardship for the neighbors in any way, shape or form. Okay, I don't know how it's going to be resolved, again, I'm trying to isolate everything else and just deal with the variance as requested. The possibilities, I can't think of the possibilities, it's not for me to make that decision. I believe that we're going to have some kind of a Town adjustment to this because it's quite unique, it only affects one property, okay, and to create a 50 foot road and impact the neighbor for that use, it just doesn't seem logical, reasonable or in any way a reasonable thing to have to do, but again, I don't know how it's going to be resolved, but I don't think that that should make, I don't know, can you add anything to that as far as the variance is concerned?

MR. BABCOCK: No, not really.

MR. REIS: We don't know how it's going to be resolved, again, I'm trying to isolate just the issues as they are and where are the applicants going to go, he may not be able to build on it for other reasons, but not because of the request for the variances.

MR. TORLEY: Gentlemen, entertain a motion, do I hear a motion?

MR. KANE: I move that we grant the application to Frank Maurice for his requested variances on Mt. Airy Road.

MR. MC DONALD: Second it.

MR. TORLEY: All motions must be made in the affirmative.

February 28, 2000

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MR. MC DONALD: Second it.

ROLL CALL

| | |
|--------------|----|
| MR. MCDONALD | NO |
| MR. KANE | NO |
| MR. TORLEY | NO |

MR. BARNHART: Motion's denied.

MR. REIS: Thank you.

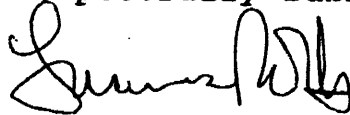
MR. MC DONALD: Move we adjourn.

MR. KANE: Second it.

ROLL CALL

| | |
|--------------|-----|
| MR. MCDONALD | AYE |
| MR. REIS | AYE |
| MR. KANE | AYE |
| MR. TORLEY | AYE |

Respectfully Submitted By:



Frances Roth
Stenographer

| | | CLAIMED | ALLOWED |
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| 10 | Zoning Board Mtg | 75.00 | |
| | Misc - 2 | | |
| | Trinajstic - 5 | | |
| | Ryan - 3 | | |
| | Scaglione - 10 | | |
| | Maurice - 1 | 4.50. | |
| | <u>21</u> | <u>94.50</u> | |
| | | 169.50 | |

MAURICE, FRANK

MR. TORLEY: Public hearing continued from 1/24/00 meeting. Request for 68.8 lot width and 28.8 ft. street frontage to construct single-family dwelling on Mt. Airy Road in an R-3 zone.

MR. KANE: We cannot move on that.

MR. TORLEY: We have two people in the audience. You weren't here last week, do you have any questions you want to discuss?

MR. KANE: No, I was here the first time and I read the article and what Mike brought up. I have no questions.

MR. TORLEY: I just want to give you a chance to talk directly.

MR. KANE: No, I've heard the new information.

MR. TORLEY: We never adjourned, it's a continuation of the public hearing because we never--

MR. KRIEGER: You cannot vote to take it up off the table because there isn't a quorum.

MR. KANE: We can't do anything until the other two get back.

MS. BARNHART: We'll try the next meeting. Next meeting will be the 28th.

Date 7/26/00, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO DR.

Frances Roth
168 N. Drury Lane
Newburgh, N.Y. 12550

| DATE | | | CLAIMED | ALLOWED |
|------|--|---------------------|---------|---------|
| #00 | | Zoning Board Mtg | 75 00 | |
| | | Misc - 2 | | |
| | | Moroneg - 3 | | |
| | | Borgna - 4 | | |
| | | Bachhofen - 5 | | |
| | | Petro Metals - 5 | | |
| | | Omat - 6 | | |
| | | Llanusa - 1 | | |
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MAURICE, FRANK

MR. NUGENT: Request for 68.8 ft. lot width and 28.8 ft. street frontage to construct single-family dwelling on Mt. Airy Road in an R-3 zone. We can't do number 7, Frank Maurice, because one of other members has to step down.

Mr. Michael Reis appeared before the board for this proposal.

MR. TORLEY: We can take the testimony, we can't take a vote, but we can have the public comment.

MR. NUGENT: Then you've got to open it again.

MR. TORLEY: But the people are here, we can let them talk.

MR. NUGENT: Are you going to shut it down permanently?

MR. TORLEY: I'll ask our attorney whether we're permitted. The people have come out.

MR. KRIEGER: No, in order to close it, you'd have to take a vote, right, you can't do that.

MR. TORLEY: But an adjournment can be taken?

MR. KRIEGER: Yes, an adjournment can be taken with less than three quorum.

MR. TORLEY: Let the people have their say, adjourn it to our next meeting where the public hearing can be closed and the appropriate votes taken, then the people have come out on a night like this, I'd prefer to let them have their say.

MR. NUGENT: Fine, that's fine. And you obviously can't take any final action.

MR. KRIEGER: Bearing in mind at least one of the persons who is going to vote will have to do so on the basis of reading the minutes.

MR. NUGENT: One of the other members wants to vote, he has to read the minutes in order to understand that he is not going to get the comments personally.

MR. KRIEGER: It's totally up to them, unless the members of the public want to come back and say it, they don't have to, I mean, it's entirely up to them.

MR. TORLEY: Well, I mean, may I address, do you folks you see the problem we're in right at the moment? Do you folks want to go ahead tonight or do you want to come back at the next meeting?

MS. BARNHART: The next meeting is February 14th, Valentines Day, if that means anything to anybody.

MR. KRIEGER: It's either, or let me explain this first. The state law says in order for the ZBA to act, they must have three affirmative votes. Since there are only three members here and one of them is going to be stepping down, that leaves only two, according to this week's bulletin, and therefore, the ZBA can't take any action. What member Torley proposed since you're here, if you want to comment that you be given an opportunity to do that which I have no problem with procedurally. They can't vote to close the public hearing because there aren't three votes here to do that. So it would have to remain open, that means that if you decide to speak now and you want to come back and add to it or say something different on the 14th, the public meeting won't be closed, so you can do that. So when they're saying either or, it's really either or and it's in your discretion.

MR. TORLEY: Since you have come out, I was going to give you a chance to say tonight what you wanted to.

MR. JOHN MC CULLOUGH: John McCullough, 126 Dean Hill Road. I had just given this, I guess case, whatever you want to call it, to a lawyer cause I started getting confused with everything going on. We did find out that there's an easement running up that driveway or up between two lots.

MR. NUGENT: We're aware of that.

MR. MC CULLOUGH: From what I understand, that doesn't change any footage, if anything, it might give him access, it doesn't change footage like he needs 60 feet out front, doesn't change that.

MR. NUGENT: Still needs it, right.

MR. MC CULLOUGH: I guess that's just what my, just what I wanted to say tonight, just not that I don't see a reason for be here again, because we did this already but I understand there's a new issue involved, but I guess legally, it doesn't change anything and I guess that's all I want to say.

MR. RICHARD THORPE: Richard Thorpe, 118 Dean Hill Road. I don't know that we're going first in saying something as was pointed out, there's going to be a change presented, perhaps we should make comment after the change is presented, it would be more appropriate, I would think.

MR. NUGENT: Okay.

MR. REIS: And again, we're here to ask the board for a variance for a front. We have a lack of necessary feet, okay, road frontage. The only objections from the neighbors up until this point were if we had to create another driveway that it would create additional runoffs and hazards and create a cliff type situation from Mr. Thorpe's land to the south. We no longer have that issue. We have an easement, a 30 foot easement that gives us ingress egress to the lot along with the neighbor behind this lot and we're just asking for a variance to accommodate a building on this property with no changes to the existing driveway, basically.

MR. NUGENT: You're looking for 28 foot road frontage?

MR. REIS: Right, that was our original request.

MR. NUGENT: And 68 foot of lot width.

MR. REIS: That is our original request.

MR. NUGENT: Easement does not include road frontage, the road frontage is not included in the easement.

MR. KRIEGER: The easement basically its existence has no affect, it doesn't add or subtract from the required footage, all it does is arguably, an argument was made that the criteria toward the criteria about impact on the surrounding properties, if you remember your criteria for area variance, so the variance is still needed, it's just arguing with the new information, it would change the impact and that that ought to be considered in connection with the variance.

MR. TORLEY: Mike, is there anything in the code regarding shared driveways? I don't know of anything.

MR. NUGENT: Same thing as a private road.

MR. BABCOCK: I'm not sure, I haven't seen the information that Mike has that says that this is a shared access.

MR. REIS: It's unlike a private road, private road would allow up to four lots on a private road, this is two lots and there's nothing I know of in the code.

MR. NUGENT: It's still a private road.

MR. BABCOCK: Well, Mr. Chairman, today you would not be able to share an access without making it a private road, which there's a criteria for thickness, for width, for swales and whatever. Back when this was done--

MR. TORLEY: Even though it was done, they put the easement, have we lost any grandfather protection on that?

MR. BABCOCK: Do you have a copy of the easement or, you know, the planning board map shows two separate entrances that was approved by the planning board, it shows 33 foot entrance to lot 1 and 33 foot entrance, actually, excuse me, lot 2 and lot 3.

MR. TORLEY: Andy, I need your opinion. Am I correct

in recollection that this lot no longer has any grandfather protection after the changes in the zoning, it's as if it's a new application?

MR. KRIEGER: Basically, yes.

MR. TORLEY: So if shared driveway would fall under a new code regulation and that's what I was asking Mike, if a shared driveway is now considered the same thing as a private road.

MR. BABCOCK: Today, yes.

MR. TORLEY: So it would have to be brought to private road standards for width, et cetera and thickness and would in fact that fit within the boundaries, would a private road fit within the boundaries of this?

MR. BABCOCK: No, actually, it's right here, there's a note on the map if you notice the map if you have a copy of this, the 30 foot easement is from center line, it's 15 foot on one guy's property and 15 foot on the other guy's property. There's two right-of-ways, there's 15 foot on each side is what the 30 foot easement is. First of all, private road would have to be 50 foot width, that doesn't meet that and the private road can't be more than 800 feet long. I'm not sure what this distance is. It's 500, so it could meet that, has to end in a cul-de-sac for emergency fighting vehicles. It has to have a maintenance agreement by both parties that they'll share in the expense of snow plowing and repairs to the road, has to have swales, has to have side slopes of two to one, you know, I'm going off memory, there's a criteria.

MR. TORLEY: My other question I would have thought of this as a shared driveway, but you're telling me shared driveways do not exist today?

MR. BABCOCK: Today, no, there's no such thing.

MR. TORLEY: And we would be required, Andy, you'll correct me if I'm wrong, I trust, to consider this as such a new applicant, so it would require meeting the codes for a private road, am I correct or incorrect?

MR. NUGENT: These are pre-approved lots, aren't they?

MR. BABCOCK: Yes.

MR. TORLEY: I'm wondering whether the grandfather would cover it.

MR. KRIEGER: They have already been approved.

MR. BABCOCK: Well, the reason they are in front of this board is because they have, once they have approval from the planning board, they have three years to act on that approval or else they need to comply with the new criteria for lot width and there's a criteria what they have to apply for.

MR. NUGENT: Then they are starting all over again.

MR. BABCOCK: I think we should refer that to Andy for that.

MR. KRIEGER: Basically, after three years, you lose your grandfather protection.

MR. NUGENT: Are we starting all over?

MR. KRIEGER: Yes, since they have to come back for a variance, yes, so they can't rely on it.

MR. NUGENT: Then he can't use that road.

MR. BABCOCK: Well, there's more than the 30 feet, there's a 30 foot easement.

MR. NUGENT: He needs 50.

MR. BABCOCK: Well, there's one owner of the lot that Mike is representing tonight is 33 feet, and the gentleman in the audience owns 31 point, and these are estimates, 32 feet, so there's room for a 50 foot road there.

MR. NUGENT: But that's what they have to do, right, they have to make a 50 foot road with a cul-de-sac?

MR. BABCOCK: To be considered a private road, yes.

MR. TORLEY: And because of the absence of grandfather, they have to put a private road in.

MR. BABCOCK: I'd rather you ask Andy.

MR. REIS: Can I say something, please?

MR. KRIEGER: Sure.

MR. REIS: Gentlemen, I don't know what the problem is, here we have got two existing lots, already one has a house on it, okay, the one that doesn't have a house on it, he's looking for some relief for an existing lot that's been there some almost 20 years and the only thing that we need is a variance because of the lot width and the, I forget already.

MR. BABCOCK: Road frontage.

MR. REIS: Okay, the existing ingress and egress is there, I don't know why your convoluting it, that's all we need.

MR. NUGENT: We're not convoluting it, the laws have changed, this is getting worse by the minute.

MR. TORLEY: That's why I asked about shared driveways.

MR. KRIEGER: The fact of the matter is the details of how the driveway is constructed, road, driveway, whatever is not the business of the zoning board. So whether or not he has further difficulties after this because of having to construct more than was counted on or not, that's not properly here.

MR. BABCOCK: Well, Mr. Chairman, when we did the denial to the zoning board, we did it as if this lot was going to have its own driveway on its own access, we denied it for lot width and road frontage, then the applicant's back with a new proposal because he has this 30 foot easement and honestly tonight's the first time I seen the map. I didn't know where the 30 foot

easement was, it's 15 foot on his property and 15 foot on the neighbor's property. If they're going to share a driveway, today's code says you can't do that. You have to have a private road. Now, whether he falls under today's code or not, I'm going to let Andy answer that.

MR. KRIEGER: And Andy's going to say it's not the business of the Zoning Board of Appeals to decide that. In other words, what kind of a roadway or driveway, roadway or whatever you want to call it that he has to put in is if he has to put it in is going to first be determined by the building inspector. If he's not happy with that, the appeal is not to here to do that, he's now appealing a provision of the Town Code. Let me put it another way, the ZBA does not have the power to vary private road maintenance or construction requirements.

MR. BABCOCK: Okay, now I understand what he's saying. In other words, the private road is not part of the zoning, part of the code, so the zoning board doesn't have any authorization to vary that.

MR. KRIEGER: No more would the ZBA have authorization to require or not require sprinklers or anything else, they are details of building construction.

MR. BABCOCK: If we want to put a private road, they have to go back to planning board.

MR. KRIEGER: And I'm speaking only hypothetically, if he should get a variance from this board, and he should apply and the building inspector says well, that's nice, but you have to put in a private road according to current specs, and he seeks to vary that requirement, the variance can't come from here, because this board has no power to vary private road construction requirements. It's basically what kind of a road he puts in is irrelevant to your consideration in terms of your power to change it.

MR. BABCOCK: Mike, is there a maintenance agreement on file for this?

MR. REIS: Not to my knowledge.

MR. KRIEGER: The criteria set forth by the state to require the ZBA to make a finding with respect to impact on the neighboring properties, the proposal as it was originally presented to the board was objected to as having an adverse impact, a serious adverse impact on at least one neighboring property. Now, the applicant is coming in here and saying this won't have that serious adverse impact, so to the extent that that criteria was criteria on which it was denied in the first place, it should not now be denied because that criteria has been removed. Now, the granting of a variance, if one were granted, I'm not suggesting it should or shouldn't be, this is hypothetically speaking, if one were granted, then he would be left with a, if he goes to the building inspector, the building inspector says that's fine, but somehow or another, you have to put in a new modern drive, private road, then he's left with a conundrum, he's left with a granted variance that is of no practical use to him, that's not the business of the ZBA if it's of any value or not.

MR. REIS: Mike, can I ask you a question? As the building inspector of the Town of New Windsor, do you see a problem with the lot and ingress and egress as it is to be able to utilize it?

MR. BABCOCK: Well, only that in fact if it's going to be a shared driveway today.

MR. REIS: To be a shared driveway today as it as, has been and would be intended to be used, do you see anything that's not suitable from the building inspector's point of view?

MR. BABCOCK: Only code wise, today, you can't use a shared--

MR. REIS: I'm not talking about, I'm talking about existing situation to be able to utilize it the way it is.

MR. BABCOCK: I mean, as far as on the map is

concerned, you know, it shows this driveway being partially on both lots now.

MR. REIS: Exactly. So, as far as you're concerned as building inspector for the Town of New Windsor, is adequate and it works?

MR. BABCOCK: I can't say that, I mean, as far as one driveway, I don't even know what's there.

MR. NUGENT: I don't think that's a relevant question, Mike.

MR. REIS: I don't understand what the relevant question is then we're talking about.

MR. NUGENT: There's not going to be any questions answered tonight because we don't have a quorum to do it.

MR. REIS: There's a lot of discussion going around in circles, I'm trying to pinpoint.

MR. TORLEY: I may have opened a can of worms inadvertently, but I was asking Mike is this going to now be a shared driveway and I wanted to know if there are any special coverage for shared driveways and Mike has informed me that shared driveways are no longer permitted, it has to be a private road. Therefore, I asked Andy if the lot and the situation would be grandfathered and my understanding of his reply is that it would not be grandfathered, it must meet the present requirements.

MR. BABCOCK: And the fact that there's, well, we know tonight, there's no maintenance agreement for this that comes into play as far as who's going to plow the driveway, who's going to maintain the driveway.

MR. THORPE: Just to throw additional fly in the ointment, if in fact you put a private road in there, would you not, Mike, have to dig it out and in which case then you would effect the adjacent land?

MR. NUGENT: I don't want to beat a dead horse, we

can't take a vote and we can't go any further, we have heard the comments from the audience, I think at this point, we have just got to postpone it until February 14 or adjourn it.

MR. TORLEY: Which do we do?

MR. NUGENT: Six of one, half dozen of the other.

MR. KRIEGER: They are synonyms, actually, technically you adjourn it.

MR. NUGENT: We're going to adjourn it until February 14 meeting.

MR. MIKE GONSA (PHONETIC): My name is Mike Gonsa, 123 Dean Hill, I was here to voice my objections against the lot not having any road frontage, but it seems that things changed tonight from the, it's not a matter of not enough room so--

MR. BABCOCK: Actually, nothing has changed, it still doesn't have the criteria for road frontage and lot width.

MR. GONSA: And you wouldn't want to force anybody into a private road agreement or like you say, you can't do a shared driveway, right?

MR. BABCOCK: Actually, that's what we're saying, we'll probably be forcing him into a private road if they want to continue with their application.

MR. NUGENT: So we can't vote.

MR. BABCOCK: Are you leaving the public hearing staying open?

MR. NUGENT: It's been adjourned.

MR. KRIEGER: They can't close it.

MR. NUGENT: It's been adjourned until the 14th. Thank you.

MOTION TO RESCIND - MAURICE, FRANK

MR. NUGENT: We have a motion to rescind the Frank Maurice decision. I think we have new information that's going to be presented and I'd like to address that at this time.

MR. REIS: Thank you for the opportunity. On behalf of the Maurice family, if I would have had this information on the first presentation, the objections that the neighbors had would have been addressed and those objections wouldn't even exist, okay. We determined that it is a legal lot and we're asking for a variance to be able to build on the front lot, lot 3. The objections that were raised by the neighbors, one being the dropoff from the property to the south and the standing water creating ice hazards to the property directly behind us will no longer be an issue because we discovered unfortunately at this time instead of originally that there's a 30 foot easement of ingress egress that handles both lots, the existing lot with the existing house and the house to be built in this existing road driveway easement gives both the ingress egress, so there's no additional paving necessary, no excavation necessary to accommodate a second home.

MR. NUGENT: May I see that?

MR. REIS: Yeah, sure. The existing road, actually the bulk of it is on this lot.

MR. NUGENT: The existing road?

MR. REIS: The bulk of it is here.

MR. NUGENT: He'd have to make a turn onto this.

MR. REIS: That's right, the driveway is here and this exists as it is.

MR. NUGENT: As it is now?

MR. REIS: Right, exactly.

MS. BARNHART: So, you don't need a variance.

MR. REIS: Well, we need the variance because of the, we still need the variance for the front yard.

MR. NUGENT: I don't know if he needs a variance.

MR. BABCOCK: Yeah, you need lot width because you still don't have the lot width, you can't get lot width from an easement, he has 31.2 feet so he needs a variance of 68.8 feet still, he still needs the same variance, the easement doesn't give him anymore property. The required road frontage is also the same because the easement doesn't give him anything. The only thing the easement does for him is give him the access so that he's not cutting another swath out of the road going into the property.

MR. TORLEY: Andy, under normal circumstances, absent new information, can he reapply in six months?

MR. KRIEGER: Yes.

MR. TORLEY: But by making the submission of new information, he's requesting a reapplication rehearing immediately.

MR. KRIEGER: Yeah, it's in essence because of the new information, and because no written memorandum or decision was ever adopted on this, so it wasn't closed, that the application doesn't have to in this case make a new application, but the vote that, the vote has to be rescinded and then it can be reconsidered under the same application. But it means there are two tests, there's both the six month test, the new information six month test and the, by happenstance, it so happens the formal decision wasn't adopted, if it had been, that would have closed out that application.

MR. NUGENT: So what we're going to do now is we're going to rescind our original final motion.

MR. TORLEY: Mr. Chairman, I would not want to do that without letting the--

MR. KRIEGER: Well, here are the steps. You can, if

you rescind the vote, vote to rescind the vote to approve, okay, you can, then you're back to the stage where the public hearing that had been closed but a no vote had been taken, you can also vote to rescind that vote closing the public hearing, thereby reopening the public hearing. But so that you can get new input, new information that's entirely up to you, you don't have to, you can or cannot.

MR. TORLEY: We can do that?

MR. KRIEGER: We can do that.

MR. TORLEY: There's never a vote to close it, it was closed by the ruling of the Chair, which is routine.

MR. NUGENT: He's saying you can go back further than that, if that's your pleasure.

MR. TORLEY: I would.

MR. BABCOCK: You can even readvertise, I mean, if you rescind the motion to close the public hearing, and you say you're going to open up the public hearing say tonight, wouldn't have any opportunity of the public to speak.

MR. KRIEGER: I might indicate in passing along those lines I had when I became aware that the applicant was going to bring in new information, I talked to Dick Thorpe who was one of the objectants who appeared and who afterwards indicated to me that he was willing to act as spokesman or point man, if you will, for the objectants to make him aware of the fact that this application would be made and supply the information to him for his review and for his dissemination, now that obviously is not official, doesn't take the place necessarily of a required publication, but the notice was provided ahead of time, so that it was known, I think there's a neighboring property owner here now I have to presume that that advice that I had disseminated.

MR. REIS: I know what your concern is, Larry, you want to do things that are legal and right.

MR. TORLEY: Also since we, the neighbors are here and vote was taken not to grant the variance. Absent public and I don't want to do anything behind the scenes, I would like the public to, for them to have the chance to comment upon the new information, whether their deed shows the same thing, whether they are constructing their house, assuming that this right-of-way existed or not, so I if, we wanted to make a motion to rescind, I would want to go back to the public hearing point.

MR. NUGENT: Absolutely.

MR. TORLEY: Reopen the public hearing.

MR. KRIEGER: It would be two separate steps, you can do that, you're aware, should be aware of the fact that it's two separate steps, you vote to rescind the, you know, the vote on it and then after that motion, you move also to rescind the closure of the public hearing.

MR. REIS: The fact that the attorney, our attorney has spoken to Mr. Thorpe and did he give you blessings on, based on this information?

MR. KRIEGER: Yeah, he indicated to me that as long as as far as he was concerned, that as long as there was a condition placed on the granting of a variance that no new roadway be constructed and that the applicant use that easement, his objection was satisfied. He also indicated to me, however, that at least one of the other neighbors had objections and potential objections that were different from his, and he could not and would not speak for them. But he was satisfied as far as he knew all but one person that would was satisfied but--

MR. TORLEY: I, one of my concerns if we just go back to the public hearing, I would move to have the public hearing continued at the next meeting, so that I could feel confident that there was adequate notice to all the neighbors, that this was going on, they wouldn't want I know it's an additional two weeks, but would, I do not want to open it, do something and close it up

without being confident that all the neighbors had a chance to hear about it.

MR. REIS: Let me ask you this, to accommodate that, can we--

MR. NUGENT: You already have the list.

MR. REIS: We would have to send out the list again or just send it out to the three people? If we notify the three people that are directly effected by this.

MR. TORLEY: Whoever was here at the last meeting.

MR. NUGENT: I think it's got to be everybody, it's nobody or everybody.

MR. BABCOCK: Mr. Chairman, in all honesty, I understand what Mr. Reis is talking about, but I think that people that were here at the meeting and in all honesty, people here at the meeting and this thing got disapproved and two weeks or three weeks from now, they see a backhoe digging a foundation, they're going to want to know what the heck is going on.

MR. REIS: I respect that.

MR. TORLEY: How many?

MS. BARNHART: It's got 12 names on it.

MR. TORLEY: I'm going to make a motion then that I would very much appreciate you helping me say it properly, I would make a first motion that we rescind the vote regarding 65-1-16.12, that would be the first motion that's required, correct?

MR. KRIEGER: Correct.

MR. TORLEY: I would make the motion.

MR. MCDONALD: Second it.

ROLL CALL

| | |
|--------------|---------|
| MR. REIS | ABSTAIN |
| MR. MCDONALD | AYE |
| MR. TORLEY | AYE |
| MR. NUGENT | AYE |

MR. TORLEY: Now, the second motion would be regarding to reopening the public hearing and with notification now I need your help on what the appropriate thing to do for the notification would be.

MR. KRIEGER: Reopening of the public hearing on proper notification and I, you know--

MR. TORLEY: I don't think he needs to readvertise in the paper, but send out 12 letters, I don't know if that's legal or not.

MR. KRIEGER: Well, you know, how much do we save by not republishing in the paper?

MS. BARNHART: Ten bucks.

MR. TORLEY: Then I would move he--

MR. KRIEGER: I don't think it pays.

MR. TORLEY: I move that we reopen the public hearing with proper notification and publication.

MR. MCDONALD: Second it.

ROLL CALL

| | |
|--------------|---------|
| MR. REIS | ABSTAIN |
| MR. MCDONALD | AYE |
| MR. TORLEY | AYE |
| MR. NUGENT | AYE |

Date 12/13/99, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth
168 N. Drury Lane DR.
Newburgh, N.Y. 12550

| DATE | | | CLAIMED | ALLOWED |
|----------|--|--------------------|---------|---------|
| 11/22/99 | | Zoning Board Mtg | 75 00 | |
| | | Minutola - 3 | | |
| | | Accettura - 5 | | |
| | | Scaglione - 5 | | |
| | | UGB Assoc. - 5 | | |
| | | Hansen - 4 | | |
| | | Maurice - 5 #22.50 | | |
| | | Misc - 2 - | | |
| | | 29 | 130 50 | |
| | | James Vagstad | 205 50 | |

MAURICE, FRANK

Mr. Michael Reis appeared before the board for this proposal.

MR. NUGENT: Next item is postponed from the decision for Frank Maurice. At this time, I'd like to open it back up and discuss it. Did you find out?

MR. KRIEGER: In order to take this up, you need a motion on the part of a member, second and passed to take it up from the table.

MR. TORLEY: I move we take up from the table, the requested variance of Frank Maurice.

MR. KANE: Second it.

ROLL CALL

| | |
|--------------|-----|
| MR. KANE | AYE |
| MR. MCDONALD | AYE |
| MR. REIS | AYE |
| MR. TORLEY | AYE |
| MR. NUGENT | AYE |

MR. KRIEGER: It's now in front of you and you may proceed.

MR. REIS: Since the last meeting, I was able to obtain the approval from the Town of New Windsor for the two lots actually subject lot, the lot behind it, the subject lot is an approved lot, has been since 6/24/81. I took the time to go up there and take pictures, it's very difficult to show in the pictures the topo and the lay of the land, we had opinions at the last meeting that there was a steep dropoff. The people that were here and are here, I value their concerns, but my opinion is that it is not going to negatively impact anything that's there. The dropoff that's to the west of Mr. Thorpe's property already exists, and the driveway that will be created will not make that dropoff any more or any less. The existing driveway to the--

MR. BABCOCK: West.

MR. REIS: --to the west, thank you, like there and Mrs. McCullough mentioned has a flat area that they have some accumulation of ice in inclement weather again and expansion of an additional driveway there's enough property there to work with that I don't think is going to impact their property as well. I'm open to questions.

MR. TORLEY: The question I had at the time, did we ever get a chance to get back and find whether or not the planning board may have made an inadvertent error in granting this lot, since it didn't meet the front yard standards at the time, I don't think it did, I don't think, I think--

MR. BABCOCK: Do you know what the front yard standard was in 1981?

MR. TORLEY: Figure it's a lot more than 30 feet.

MR. BABCOCK: That's the problem.

MR. NUGENT: Front yard.

MR. TORLEY: Road frontage had to be more than 20 feet.

MR. NUGENT: Sixty feet that I know of.

MR. BABCOCK: It was an R-4 a zoning district, Mr. Chairman, and I think you do remember, the R-4A, today, we only have R-4, R-4A, there was two what they call you went into a use group and from a use group to a bulk table there was two sets of and that's all been changed that was changed in 1986. When they made it all R-4. and made one bulk table and you didn't have a column of use and a column of bulk regulations. So honestly, I couldn't tell you what the requirement was back in 1981 without going back and trying to find what the bulk regulations for R-4A was. I don't know that.

MR. TORLEY: If even in theory had it been an approved lot in '81, the code changed in '86, so it was no longer an appropriately sized lot, he had three years

to build on it under those conditions and it has long since expired.

MR. BABCOCK: That's correct.

MR. TORLEY: So, legally, as far as if they just dropped the lot fresh on the table today, it becomes irrelevant.

MR. BABCOCK: Yes, it loses, you have three years to obtain a building permit, either one, after a planning board approval or two, from a subsequent zoning change.

MR. KANE: Without going for a variance?

MR. BABCOCK: That's correct. He has to come to me for a building permit, if he doesn't meet the criteria of Section 48, I'm not sure what the section is but Section 48 of the zoning, I'm denying his building permit application, therefore, he can appeal it to this board, that's where he is and the sections that he's appealing would be the section that says you have three years from the date of a zoning change to obtain a building permit.

MR. KANE: Mr. Chairman, have we closed the public hearing?

MR. NUGENT: No, we haven't, I wanted to get all this information out first and we'll open it back up to the public. Are there any further questions?

MR. REIS: I'd like to make a statement, if I may. The applicant has had a lot here, legal lot, a legal lot that he's been paying real moneys for since 1981. He has a need now to utilize this lot that he's been paying taxes on for the last 18, almost 19 years and that's why we're here. The objections that were brought up by the neighbors are in their minds legitimate objections and concerns are legitimate, they are also opinions, I think if we got engineers out there, that we could create a driveway. I think that was the major objection that was going to cause a cliff and it was going to cause additional runoffs and possibly additional ice problems on the existing

driveway. In my opinion, trying to be objective, obviously, trying to help the applicant, but it's an opinion I don't believe that a 15 foot driveway is going to create anymore of a hazard or anymore of an inconvenience or anymore of a dropoff that already exists.

MR. NUGENT: Could I see that drawing?

MR. REIS: Sure.

MR. NUGENT: Is there sewer and water?

MR. REIS: Sewer, Mr. Thorpe, again, to the east already has sewer, I believe, right, Dick, you have sewer, right?

MR. THORPE: Yes.

MR. NUGENT: I'd like to open it back up to the audience. Anyone like to speak on it? Try not to be repetitious.

MR. JOHN MC CULLOUGH: John McCullough, 126 Dean Hill Road. Seems like there's a lot of talk about the driveway, the width. One thing I notice recently and I mean I live right next to the lot, the driveway starts out wide and it does narrow down as you even go in further, I don't know if that's of importance or not, but we're talking about the entrance going in and it does narrow down. Another thing that Mike had mentioned and I had planned to talk about tonight was we have pictures, we have opinions, has an engineer even gone up there and looked at the lot? I mean, maybe we should get an engineer involved. There are a lot of opinions and people are guessing and it seems like, I mean everybody pays taxes. Just because a man paid taxes for 11 years on a lot, we all pay taxes, that's not a reason to be giving a variance. But the only other thing I want to mention I do have drainage on my property, on my driveway, and if I am correct by law, you cannot add to that. I could be wrong about that, but that was my only complaint. I don't want to see any drainage problems increased on my driveway. That's about it. Thank you.

MR. NUGENT: Anyone else?

MR. THORPE: Richard Thorpe, 118 Dean Hill Road. I agree with one point about probably an engineer needs to look at what would occur if in fact you cut a driveway in there, I'm sure Michael would recognize the fact that there's a drop. And it's sloped down to the other driveway, it's not straight down now, it's a slope, and if you cut it out, now you've made it a drop straight down. The other thing I think Mr. Maurice intended originally and probably by mistake did not give the right-of-way onto the other parcel that he sold to my neighbor. It was his mistake. Short of him having use of that same driveway which he has attempted and been turned down, he I believe would be creating that hazard first of the drop and once you have created that drop, you'll create an environmental impact and that my land will erode because he builds walls and everything else to maintain the land where it is cause if you dig in, the environmental factors will simply erode my property back down onto his driveway, I assume. That's all I have to say. And, oh, the final thing is the reason I went into the sewer is because my septic systems up there failed, the land does not have a great perc test, that's it.

MR. NUGENT: Anyone else? At this time, I close the public hearing and open it back up to the board for their comments or questions.

MR. TORLEY: Mr. Chairman, as I understand all motions must be in the affirmative. Therefore, I make a motion we grant the requested variance.

MR. KANE: Second the motion.

ROLL CALL

| | |
|--------------|----|
| MR. KANE | NO |
| MR. McDONALD | NO |
| MR. TORLEY | NO |
| MR. NUGENT | NO |

Date 11/17/99, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth
168 N. Drury Lane
Newburgh, N.Y. 12550 DR.

| DATE | | | CLAIMED | ALLOWED |
|---------|--|---------------------|---------|---------|
| 11/8/99 | | Zoning Board Mtg | 75 00 | |
| | | Misc - 2 | | |
| | | Duffer's - 5 | | |
| | | Boss - 10 | | |
| | | Aldridge - 4 | | |
| | | H-2 Development - 4 | | |
| | | Maurice - 12 | | |
| | | Windsor Academy - 3 | 180 00 | |
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MAURICE, FRANK

MR. NUGENT: Request for 68.8 ft. lot width and 28.8 ft. street frontage to construct single-family dwelling on Mt. Airy road in R-3 zone.

Mr. Michael Reis appeared before the board for this proposal.

MR. NUGENT: Is there anyone here for that? Please sign the sheet.

MS. BARNHART: For the record, we sent out on the 18th of October, 12 notices to adjacent property owners.

MR. REIS: I'm Michael Reis, I'm representing Elaine and Frank Maurice. For the record, I'm a real estate broker and disclosure interest in the potential sale of this property. For a new owner, potential buyer to build on this property, it requires a variance. This is a pre-existing lot. And when the lot was created, the front yard and rear yard and all the sides were adequate for that at time. The lot has been in existence since the early 1980's, so to build on this lot today, we do need a variance for front yard and that's the reason I'm here.

MR. NUGENT: He didn't create this lot? Mr. Maurice didn't create this lot, he purchased it as is?

MR. REIS: He created the lot, right, in the early '80's and at that time, it was adequate and within so many regulations.

MR. TORLEY: We were allowing flag lots back then?

MR. BABCOCK: It was a lot approved by the planning board.

MR. NUGENT: It was?

MR. BABCOCK: Yes.

MR. TORLEY: As was the one right next to it.

MR. BABCOCK: That's correct.

MR. TORLEY: Were the two lots combined, it would then at least meet the road frontage, would they not?

MR. BABCOCK: Correct.

MR. TORLEY: Yet they would still miss on the--

MR. BABCOCK: They'd miss on the lot width because of the new law that came in effect, that lot width is measured at the front yard setback, the front yard setback here is I think it's 45 feet, whatever it's some 200 feet before it becomes more than 60 foot wide.

MR. REIS: Very similar circumstances to the applicant that was just here. By granting this variance, if I may say, this will not impact the neighborhood or the community or the neighbors in any way. This is the bulk of the land as you can see from the maps is some 240 feet off the road and the building site will be barely visible, even in the fall and winter of the year with the foliage off the trees.

MR. TORLEY: Has the applicant made any effort to approach the owners of the surrounding lot, purchased it to improve their road frontage?

MR. REIS: All right, the lot to the, what would be the south, the existing flag lot to the south of this already exists and there's a home on it already, so that property cannot be further subdivided. Right north of it, not that I am aware of.

MR. NUGENT: Are you saying if I am reading this correctly, that this blue is the lot we're speaking of, is this a driveway to another lot?

MR. REIS: That's correct, and that house exists and that's been there since I would guess late '80's.

MR. BABCOCK: There's a house behind this lot.

MR. TORLEY: I don't remember that variance.

MR. BABCOCK: That was built back in the '80's.

MR. REIS: In the audience is that homeowner.

MR. NUGENT: Well, is there any questions by the board? I'll open it up to the audience. Let's hear what the audience has to say. It's open to the audience, anybody like to speak?

MR. BABCOCK: Just ask them to state your name first, name and address so we have it for the record.

MR. JOHN MCCULLOUGH: John D. McCullough, 126 Dean Hill Road. I understand that width is a new law, when did that new law take effect?

MR. NUGENT: The width?

MR. MCCULLOUGH: Yeah, that was changed from the '80's from the original variance has that changed now?

MR. BABCOCK: Yeah, when did that stuff go into effect that we just did?

MS. BARNHART: I think it was March.

MR. MCCULLOUGH: March of this year?

MR. BABCOCK: It's the definition, the definition of lot width used to be measured at your house, wherever your built your house. Now it's measured at the front yard setback and every zone is a little bit different. So now if your zone says that 50 feet off the road is your front yard setback, that's where the lot has to be wide enough to build a house, instead of creating a lot like this where before you could build a house back here and that would be wide enough, now they are saying the lot width is up at the front yard setback and that was changed sometime in March.

MS. BARNHART: Either March or April, I don't remember, it's in the book.

MR. TORLEY: Road frontage was changed quite a while before that though.

MR. NUGENT: You always need 60 foot road frontage.

MR. TORLEY: That's why I don't understand how this one got through.

MR. MCCULLOUGH: Actually two variances, that's what we're going for.

MR. BABCOCK: Yeah, lot width and road frontage.

MR. MCCULLOUGH: So, in other words we're going to change a new law that just came in effect in March? That's what I'm asking.

MR. NUGENT: We're going to vary it.

MR. KANE: We're not going to change the law, they are asking for an appeal of that particular law.

MR. REIS: So we can utilize the lot.

MR. MCCULLOUGH: My only concern, that's my driveway that runs up to that lot 2 that you're speaking of. One of my main concerns definitely is going to be drainage, which I mean I have those problems now, but it's not major, there's a part of my driveway that's very flat and it's almost like a skating rink, the ice going across it, but I deal with it and that's definitely going to be one of my main concerns, what are they going to do as far as drainage, it's actually that land slopes towards the road and towards my driveway and I'm just, I'd like to know what they are going to do as far as drainage.

MR. NUGENT: Is it above your driveway?

MR. MCCULLOUGH: That's correct, it is.

MR. BABCOCK: This all slopes to the lake, Brown's Pond.

MR. NUGENT: Okay, anyone else?

MR. REIS: Can I respond to that, Jim?

MR. NUGENT: Let everybody talk.

MR. STEVE D'AGOSTINO: Hi, my name is Steve D'Agostino, I live on Dean Hill, 106, my family and I were new to the area and our main concern, though we respect everyone's rights as property owners, I would like to make sure that everyone else's rights is respected, also especially pertaining to over-building, and maybe tax is the septic, the water. And the code says that there isn't enough frontage or width to put a structure on this lot, so that's really, you know, why I am here, I'd like to have that really explained to me why that is possible.

MR. KANE: Anybody basically has a right to appeal those laws and ask for a variation of the law for extenuating circumstances. There extenuating circumstances would be the layout of this particular lot, they need relief to be able to get back there and use their lot. Normally, on that particular lot, you would build your home back there without a variance, Michael, if it wasn't for where we measure it from right now.

MR. BABCOCK: And also the road frontage.

MR. KANE: So they have a right to appeal that and ask for relief, that's why they are able to come here.

MR. D'AGOSTINO: Thank you.

MR. TORLEY: When the lot was subdivided, it met the code at the time. Code has changed since the lot was created, so they are asking for relief.

MR. NUGENT: Never had road frontage.

MR. TORLEY: They must of had some, no variances that I remember, 1.162 according to the map.

MR. REIS: For the subject lot is 1.16 acres.

MR. NUGENT: Go ahead, would you like to speak?

MR. RICHARD THORPE: Dick Thorpe. Well, as Mr. D'Agostino, my property adjoins exactly that property. I would have a concern on the perc test and so forth, because I know on my property, I had the same problem with drainage, with the septic systems and thank God the sewer system came through because it was, had a major problem there and I'm hooked into the sewers now. But the drainage in that property is not good and since I'm downhill from it, if in fact they have a problem with septic, I will be the receiver. That's it. I assume you'd have a right-of-way on the driveway?

MR. REIS: No, that's not accurate.

MR. THORPE: I don't know how that works then.

MR. REIS: New driveway will be created.

MR. THORPE: A new driveway will be created?

MR. BABCOCK: This is the AT&T line, this is the driveway that goes up to the house and he owns 33 feet on Dean Hill Road where he would build a driveway up.

MR. THORPE: That would then create a cliff at my property, if that is true, if what you plan to do there you would create a cliff for me at the edge of my property, cause that property goes straight down. Right now, it's sloped down but assuming that is his property, it's going to be a cliff, you would create a good 10 to 15 foot drop if you put a driveway down there. I assume you'd have to shore it up and so forth but that would be, I have no, I had no idea, I thought you were going to use the same driveway to create another driveway there. I have very strong objections.

MR. NUGENT: Is there anyone else that would like to speak? Close the public hearing at this time and open it back up to the board members.

MR. KANE: Michael, do you have any pictures of that area?

MR. REIS: No.

MR. TORLEY: Do we know what the slope looks like?

MR. REIS: No, I don't have any pictures.

MR. NUGENT: I'm very concerned because this is a self-created hardship and if there's no further questions by the board, I'll accept a motion.

MR. REIS: Can I make a comment?

MR. TORLEY: I would like to know a little more, Mr. Thorpe said there's a severe slope to the land.

MR. REIS: Well, that's an interpretation, an opinion, I don't think so.

MR. TORLEY: In order to cut a driveway through this lot, how much of a grade is he going to have?

MR. REIS: That's approximately the same elevation to the existing driveway to the west of it.

MR. THORPE: Correct, but from that driveway to my property is a straight slope down and it's got to be 15 foot drop, now you're going to dig that out, you've got a cliff for me.

MR. TORLEY: Fifteen feet over 35 feet.

MR. THORPE: That's correct.

MR. MCCULLOUGH: What's you're actually going to do is build a driveway the same level as mine?

MR. REIS: Can I just clarify something? I don't want to do anything, I'm just here for the owner of the property to present this to the board.

MR. TORLEY: Is the owner of the property the one who subdivided the property?

MR. REIS: The owner of the property subdivided the property almost 20 years ago and this was a legal lot, he's been paying taxes on it for the better part of 20 years, and now he wants to be able to utilize this

property and that's why I'm here.

MR. NUGENT: It's not a legal lot, was never a legal lot, didn't have enough road frontage.

MR. THORPE: He had an option to make that a right-of-way, that driveway, since he owned it all, he had the option to make that a right-of-way driveway and use the one driveway, but if you put that in there right now, you're creating a hazard. I had no idea what you were going to bring out here, I assumed I had the right-of-way and I'm just amazed that you would even consider such a thing.

MR. TORLEY: Who owns the lot shown on the tax map here, is 15 still the same owner of the property?

MR. REIS: No, this tract has changed hands, I don't know the owner.

MR. NUGENT: Dick, where is your property in relation?

MR. THORPE: It attaches.

MR. NUGENT: Any further questions by the board?

MR. TORLEY: Just one quick question, Mike, when this lot was created, was it regardless of whether the planning board approved it, did it meet because we can always correct errors?

MR. BABCOCK: I didn't work here then, you can't ask me. You need to ask Andy that question.

MR. TORLEY: Before I would vote, I need to know whether this lot, when it was created, whether or not the planning board approved it when it was created, did it meet the codes at the time?

MR. NUGENT: I have been on the board over 20 years and it's always been a 60 foot frontage.

MR. KRIEGER: I have no independent recollection of what was considered at the time, so I'd have to look at the records, but it's a good question, I don't know

why.

MR. TORLEY: Because you pointed out to us we're under no obligation to ignore and are in fact under an obligation to correct errors that we find.

MR. KRIEGER: I can't answer that question. I don't remember, I don't.

MR. TORLEY: I wouldn't expect you to remember off the top of your head.

MR. KRIEGER: Why the planning board approved a flag lot, it's not normally their practice to do that.

MR. TORLEY: Two flag lots.

MR. KRIEGER: Rather emphatically not their practice so--

MR. TORLEY: Mr. Chairman, I would just suggest until--

MR. NUGENT: I want to read this in, I received a letter certified mail from a Mr. and Mrs. D'Agostino, who I believe you're in the audience?

MR. D'AGOSTINO: Yes.

MR. NUGENT: From their attorney not in favor of the proposal. Both the board members have read it so I'll just give it to you to put into the record as received and filed.

MR. TORLEY: My only request would be that I'd like not to vote on this tonight until we get, or unless we can immediately get information whether this lot was legal when it was created. If it wasn't legal when it was created, gives me a little different inclination than if it was a previously approved lot.

MR. NUGENT: What do we have to do on that?

MR. KRIEGER: Pull out the records on that lot.

MR. BABCOCK: Well, you'd have to go back to the Town

Clerk's records, I would assume, to find out what year it was approved and pull out the requirements for lot area and lot width and road frontage at that time and then he has a period of three years from that date or any subsequent zoning change, that's why he's here tonight because he didn't act within his three years, you know, if you create a lot and the zoning changes and the town says they want larger lots in this area, you have three years to build on the lot or you're not eligible for a building permit.

MR. KRIEGER: Your grandfather status runs out, expires.

MR. BABCOCK: Right.

MR. KANE: Basically makes it almost a moot point whether it was approved or not approved, he had three years after the change to do something.

MR. NUGENT: And he did nothing.

MR. KANE: It's a difficult decision, I mean, I'd like to see somebody have the use of this property, but I'd hate to see it at the expense of other homeowners. I would like to see pictures or have a chance to go take a look at the property.

MR. TORLEY: Take a look at the slope.

MR. KANE: Michael, how much is the speed of our action here?

MR. REIS: It's very important for the man to be able to utilize the property.

MR. KANE: Is there any indication, anything pending on this that this is going to be held up for the next public hearing?

MR. REIS: We have two weeks to, not a problem, it's not a problem, I would hope this could be resolved next meeting.

MR. NUGENT: Well, we did this at Windsor Academy, if

you wanted to.

MR. TORLEY: We're not under any obligation to vote.

MR. KANE: I'd prefer to see the lot myself before I do it, I'd like to table the vote until the next public hearing, give us the next time we'll make a motion to postpone the public hearing.

MR. KRIEGER: Table, postpone to two weeks from now or the next meeting?

MS. BARNHART: November 22.

MR. KANE: So moved.

MR. TORLEY: Second it.

ROLL CALL

| | |
|------------|-----|
| MR. TORLEY | AYE |
| MR. KANE | AYE |
| MR. NUGENT | AYE |

MR. TORLEY: Your lot was in the same situation as this lot and it can't affect you now.

MR. RICHARD VANASCO: Rick Vanasco, 113 Dean Hill Road, been out there 24 years at Dean Hill. First of all, the young lady said there was 12 envelopes sent out and what do you have to be, 500 foot from the property line, could you see if Rick Vanasco's name was on that because I didn't receive anything in the mail.

MS. BARNHART: No, it's not on the list.

MR. BABCOCK: You think you're 500 feet?

MR. VANASCO: I don't know 500, by looking, I'm right across from Dick Thorpe, we're close to the area.

MR. BABCOCK: We have a plastic gauge, we do that, it's not the applicant's obligation, we do that, so we make sure everybody that's supposed to get notified gets notified and we charge them to do this. We have a

November 8, 1999

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plastic disk that works on a tax map and you make a circle and anybody within that circle, the computer automatically spits out their name so you may be 499.

MR. VANASCO: I'd say 220 foot tops, give or take, I'm here for the support of my neighbors, basically, but okay.

Public Hearing: ~~Edwidge, Donald~~ #99-43 #99-
Maurice, Frank.

1/8/99
against
MR & MRS
against

Name:

Address:

John J. McCullough 126 DEAN HILL RD. N. WINDSOR

RICHARD THORPE 118 Dean Hill Rd

RICHARD T. VANASEO 113 DEAN HILL RD

SEVERINO D'AGOSTINO 106 DEAN HILL RD

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

99-42.

Date: _____

I. ☒ Applicant Information:

- (a) FRANK & ELAINE MAURICE P.O. Box 366 VALES GATE, N.Y. 12584 213-1990/565-9229
(Name, address and phone of Applicant) (Owner)
- (b) N/A
(Name, address and phone of purchaser or lessee)
- (c) N/A
(Name, address and phone of attorney)
- (d) MICHAEL REIS / M. REIS REALTORS P.O. Box 472 WASHINGTONVILLE, NY 10992 496-5970
(Name, address and phone of contractor/engineer/architect) BROKER
AGENT FOR
OWNER

II. Application type:

- ☐ Use Variance ☐ Sign Variance
- ☒ Area Variance ☐ Interpretation

III. ☒ Property Information:

- (a) R-3 DEAN HILL ROAD 65-1-16.12 1.162 ACRE
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? R-2 OPEN SPACE RESIDENTIAL
- (c) Is a pending sale or lease subject to ZBA approval of this application? YES (SALE).
- (d) When was property purchased by present owner? 1974.
- (e) Has property been subdivided previously? No.
- (f) Has property been subject of variance previously? No.
If so, when? _____.
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? No.
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: No
- _____

_____.

IV. Use Variance. N/A

- (a) Use Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____, to allow:
(Describe proposal) _____
- _____

_____.

(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

AT TIME OF ORIGINAL SUBDIVISION ALL REQUIREMENTS WERE MET FOR A SATISFACTORY BUILDING LOT. BY TODAY'S STANDARD MINIMUM FRONTAGE AND LOT WIDTH IS INADEQUATE RESULTING IN REQUESTED VARIANCES. (THERE IS NO LAND AVAILABLE ON EITHER SIDE OF PROPERTY) OWNER CAN NOT UTILIZE PROPERTY (WITHOUT THE VARIANCES) TO ITS HIGHEST AND BEST USE.

(c) Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application.

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes No X.

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

✓ V. Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of USE / BULK Regs., Col. D + H.

| <u>Requirements</u> | <u>Proposed or Available</u> | <u>Variance Request</u> |
|--------------------------------------|------------------------------|-------------------------|
| Min. Lot Area | | |
| Min. Lot Width <u>100 Ft.</u> | <u>31.2</u> | <u>68.8</u> |
| Reqd. Front Yd. | | |
| Reqd. Side Yd. | | |
| Reqd. Rear Yd. | | |
| Reqd. Street Frontage* <u>60 Ft.</u> | <u>31.2</u> | <u>28.8</u> |
| Max. Bldg. Hgt. | | |
| Min. Floor Area* | | |
| Dev. Coverage* <u> </u> % | <u> </u> % | <u> </u> % |
| Floor Area Ratio** | | |
| Parking Area | | |

* Residential Districts only

** No-residential districts only

✓ (b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)

whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

THE REQUESTED VARIANCES ARE MINIMAL! THEY WILL NOT HAVE AN ADVERSE EFFECT ON THE NEIGHBORHOOD!
THE HANDSHIP WAS NOT SELF-CREATED! IT WILL NOT EFFECT THE ENVIRONMENT IN A NEGATIVE WAY.

THE ZBA SHOULD GRANT THE VARIANCES SO THE OWNER CAN UTILIZE THE PROPERTY FOR ITS INTENDED HIGHEST AND BEST USE FOR A SINGLE FAMILY DWELLING.

(You may attach additional paperwork if more space is needed)

VI. Sign Variance: N/A.

(a) Variance requested from New Windsor Zoning Local Law, Section _____, Regs.

| | <u>Requirements</u> | <u>Proposed or Available</u> | <u>Variance Request</u> |
|--------|---------------------|------------------------------|-------------------------|
| Sign 1 | _____ | _____ | _____ |
| Sign | _____ | _____ | _____ |
| Sign 3 | _____ | _____ | _____ |
| Sign | _____ | _____ | _____ |
| | _____ | _____ | _____ |

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

VII. Interpretation. N/A

(a) Interpretation requested of New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

(b) Describe in detail the proposal before the Board:

✓ VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or

upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

IX. Attachments required:

Whichever
applies

- ☒ Copy of referral from Bldg./Zoning Insp. or Planning Bd.
- ☒ Copy of tax map showing adjacent properties.
- ☒ Copy of contract of sale, lease or franchise agreement.
- ☒ Copy of deed and title policy.
- ☒ Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- ☒ Copy(ies) of sign(s) with dimensions and location.
- ☒ Two (2) checks, one in the amount of \$50.00 and the second check in the amount of \$300.00, each payable to the TOWN OF NEW WINDSOR.
- ☒ Photographs of existing premises from several angles.

X. Affidavit.

Date: _____

STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE)

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/or information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.

X Michael Reis
(Applicant)
MICHAEL REIS - BROKER
FOR FRANK AND ELAINE MAURICE

Sworn to before me this

15th day of October, 1999.

XI. ZBA Action:

(a) Public Hearing date: _____

MAUREEN A. SHAND
Notary Public, State of New York
No. 4088213, Ulster County
Commission Expires June 18, 2003

(b) Variance: Granted (___) Denied (___)

(c) Restrictions or conditions: _____

_____.

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

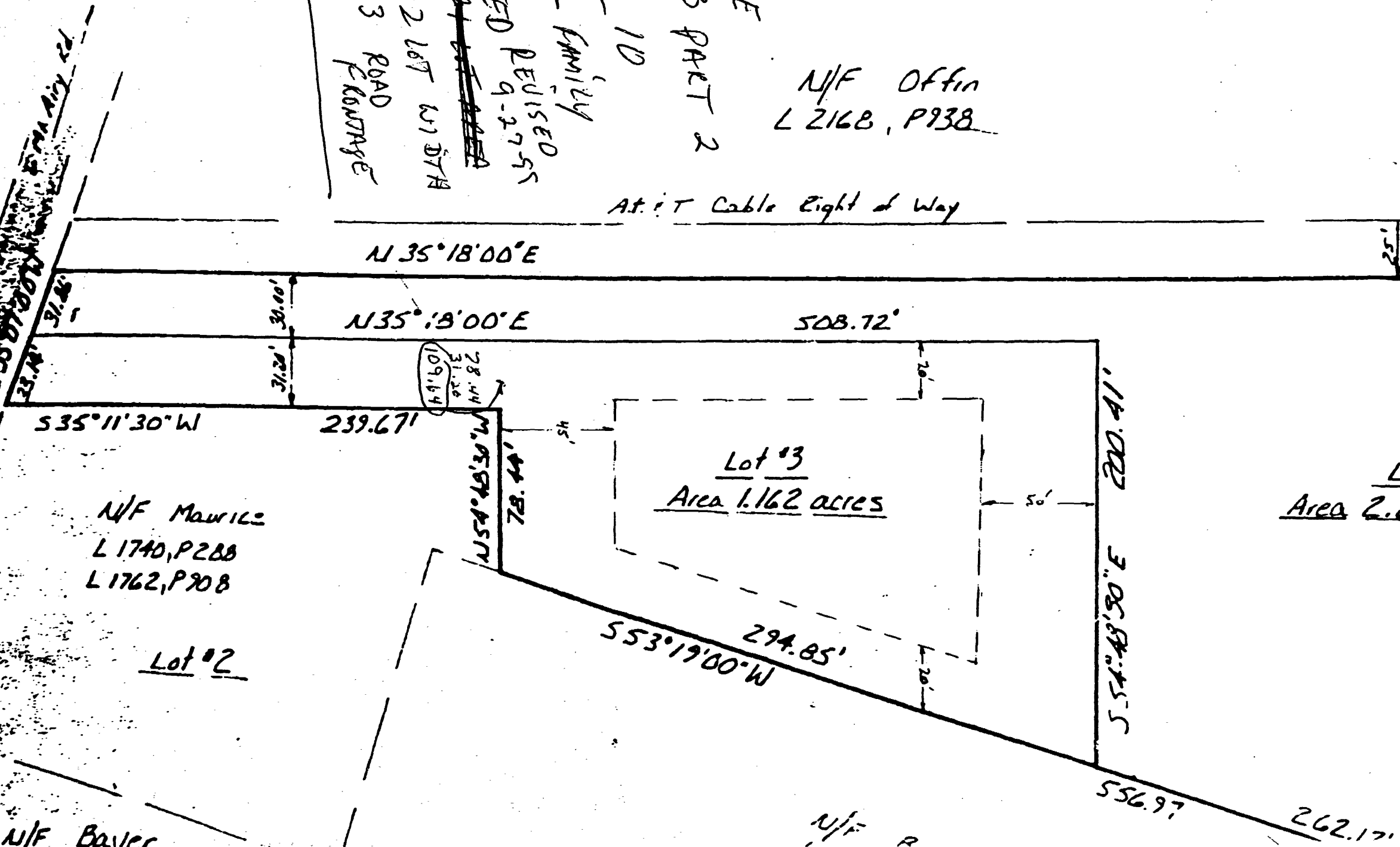
(ZBA DISK#7-080991.AP)

USE
R3 PART 2

N/F Offin
L 216B, P938

At: T Cable Right of Way

~~ONE~~ A 10
FAMILY
NEED REVISIO
9-27-95
~~109.64~~
#2 LOT W/ DTH
#3 ROAD
PLANTAGE



**OFFICE OF THE BUILDING INSPECTOR
TOWN OF NEW WINDSOR
ORANGE COUNTY, NEW YORK**

Prelim.
Sept. 27, 1999
99-42

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

**APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT (914)563-4630 TO
MAKE AN APPOINTMENT WITH THE ZONING BOARD OF APPEALS.**

DATE: September 29, 1999

Revised - 9/29/99.

APPLICANT: Frank & Elaine Maurice
P.O. Box 366
Vails Gate, New York 12584

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE: 8/23/99

FOR : Single Family Dwelling

LOCATED AT: Mt. Airy Road

ZONE: R-3

DESCRIPTION OF EXISTING SITE: 65-1-16.12

IS DISAPPROVED ON THE FOLLOWING GROUNDS: Bulk tables 48-12 R-3 Zone

1. 100' required lot width, 31.2' available, a variance of 68.8' is required.
2. 60' required street frontage, 31.2' available. A variance of 28.8' is required.


BUILDING INSPECTOR

PERMITTED

PROPOSED OR
AVAILABLE:

VARIANCE
REQUEST:

ZONE: R-3 USE:

MIN. LOT AREA:

MIN LOT WIDTH: 100FT

31.2FT

68.8FT

REQ'D.. FRONT YD:

REQ'D. SIDE YD:

REQD. TOTAL SIDE YD:

REQ'D REAR YD:

REQ'D FRONTAGE: 60FT

31.2FT

28.8FT

MAX. BLDG. HT.:

FLOOR AREA RATIO:

MIN. LIVABLE AREA:

DEV. COVERAGE:

cc: Z.B.A., APPLICANT, FILE, W/ ATTACHED MAP

**OFFICE OF THE BUILDING INSPECTOR
TOWN OF NEW WINDSOR
ORANGE COUNTY, NEW YORK**

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BUILDING INSPECTOR

PERMITTED

PROPOSED OR
AVAILABLE:

VARIANCE
REQUEST:

ZONE: R-3 USE:

MIN. LOT AREA:

MIN LOT WIDTH: 100FT

31.2FT

68.8FT

REQ'D.. FRONT YD:

REQ'D. SIDE YD:

REQD. TOTAL SIDE YD:

REQ'D REAR YD:

REQ'D FRONTAGE: 60FT

31.2FT

28.8FT

MAX. BLDG. HT.:

FLOOR AREA RATIO:

MIN. LIVABLE AREA:

DEV. COVERAGE:

cc: Z.B.A., APPLICANT, FILE ,W/ ATTACHED MAP

PLEASE ALLOW FIVE TO TEN DAYS TO PROCESS
IMPORTANT
YOU MUST CALL FOR ALL REQUIRED INSPECTIONS OF CONSTRUCTION

Other inspections will be made in most cases but those listed below must be made or Certificate of Occupancy may be withheld. Do not mistake an unscheduled inspection for one of those listed below. Unless an inspection report is left on the job indicating approval of one of these inspections it has not been approved and it is improper to continue beyond that point in the work. Any disapproved work must be reinspected after correction.

1. When excavating is complete and footing forms are in place (before pouring.)
2. Foundation inspection. Check here for waterproofing and footing drains.
3. Inspect gravel base under concrete floors and under slab plumbing.
4. When framing, rough plumbing, rough electric and before being covered.
5. Insulation.
6. Final inspection for Certificate of Occupancy. Have on hand electrical inspection data and final certified plot plan. Building is to be completed at this time. Well water test required and engineer's certification letter for septic system required.
7. Driveway inspection must meet approval of Town Highway Superintendent. A driveway bond may be required.
8. \$50.00 charge for any site that calls for the inspection twice.
9. Call 24 hours in advance, with permit number, to schedule inspection.
10. There will be no inspections unless yellow permit card is posted.
11. Sewer permits must be obtained along with building permits for new houses.
12. Septic permit must be submitted with engineer's drawing and perc test.
13. Road opening permits must be obtained from Town Clerk's office.
14. All building permits will need a Certificate of Occupancy or a Certificate of Compliance and here is no fee for this.

FOR OFFICE USE ONLY:
Building Permit #: _____

**AFFIDAVIT OF OWNERSHIP AND/OR CONTRACTOR'S COMP & LIABILITY INSURANCE CERTIFICATE IS
REQUIRED BEFORE PERMIT WILL BE ISSUED**

PLEASE PRINT CLEARLY - FILL OUT ALL INFORMATION WHICH APPLIES TO YOU

Owner of Premises FRANK + ELAINE MAURICE

Address P.O. Box 366 VAILS GATE, N.Y. Phone 213-1990 / 565-9229

Mailing Address P.O. Box 366 VAILS GATE, N.Y. 12584

Name of Architect N/A

Address _____ Phone _____

Name of Contractor N/A

Address _____ Phone _____

State whether applicant is owner, lessee, agent, architect, engineer or builder FRANK + ELAINE MAURICE (MICHAEL REIS-562-5420)

If applicant is a corporation, signature of duly authorized officer. _____

(Name and title of corporate officer)

1. On what street is property located? On the NORTH side of DEAN HILL RD.
(N,S,E or W)
and 525 feet from the intersection of MT. AIRY ROAD
2. Zone or use district in which premises are situated R-3 Is property a flood zone? Y N X
3. Tax Map Description: Section 65 Block 1 Lot 16.120
4. State existing use and occupancy of premises and intended use and occupancy of proposed construction. ONE
a. Existing use and occupancy VACANT b. Intended use and occupancy FWD FAMILY DWELLING
5. Nature of work (check if applicable) New Bldg ☒ Addition ☐ Alteration ☐ Repair ☐ Removal ☐ Demolition ☐ Other ☐
6. Is this a corner lot? NO
7. Dimensions of entire new construction. Front — Rear — Depth — Height — No. of stories —
8. If dwelling, number of dwelling units: 1 Number of dwelling units on each floor —
Number of bedrooms — Baths — Toilets — Heating Plant: Gas — Oil —
Electric/Hot Air — Hot Water — If Garage, number of cars —
9. If business, commercial or mixed occupancy, specify nature and extent of each type of use N/A
10. Estimated cost — Fee —

date

APPLICATION FOR BUILDING PERMIT
TOWN OF NEW WINDSOR, ORANGE COUNTY, NEW YORK
Pursuant to New York State Building Code and Town Ordinances

Building Inspector: Michael L. Babcock
Asst. Inspectors Frank Lisi & Louis Krychear
New Windsor Town Hall
555 Union Avenue
New Windsor, New York 12553
(914) 563-4618
(914) 563-4693 FAX

Bldg Insp Examined _____
Fire Insp Examined _____
Approved _____
Disapproved _____
Permit No. _____

INSTRUCTIONS

- A. This application must be completely filled in by typewriter or in ink and submitted in duplicate to the Building Inspector.
- B. Plot plan showing location of lot and buildings on premises, relationship to adjoining premises or public streets or areas, and giving a detailed description of layout of property must be drawn on the diagram, which is part of this application.
- C. This application must be accompanied by two complete sets of plans showing proposed construction and two complete sets of specifications. Plans and specifications shall describe the nature of the work to be performed, the materials and equipment to be used and installed and details of structural, mechanical and plumbing installations.
- D. The work covered by this application may not be commenced before the issuance of a Building Permit.
- E. Upon approval of this application, the Building Inspector will issue a Building Permit to the applicant together with approved set of plans and specifications. Such permit and approved plans and specifications shall be kept on the premises, available for inspection throughout the progress of the work.
- F. No building shall be occupied or used in whole or in part for any purpose whatever until a Certificate of Occupancy shall have been granted by the Building Inspector.

APPLICATION IS HEREBY MADE to the Building Inspector for the issuance of a Building Permit pursuant to the New York Building Construction Code Ordinances of the Town of New Windsor for the construction of buildings, additions, or alterations, or for removal or demolition or use of property as herein described. The applicant agrees to comply with all applicable laws, ordinances, regulations and certifies that he is the owner or agent of all that certain lot, piece or parcel of land and/or building described in this application and if not the owner, that he has been duly and properly authorized to make this application and to assume responsibility for the owner in connection with this application.

Michael Reis for Frank & Elaine Maier as agent
(Signature of Applicant)

P.O. Box 472 WASHINGTONVILLE, NY 10972
(Address of Applicant)

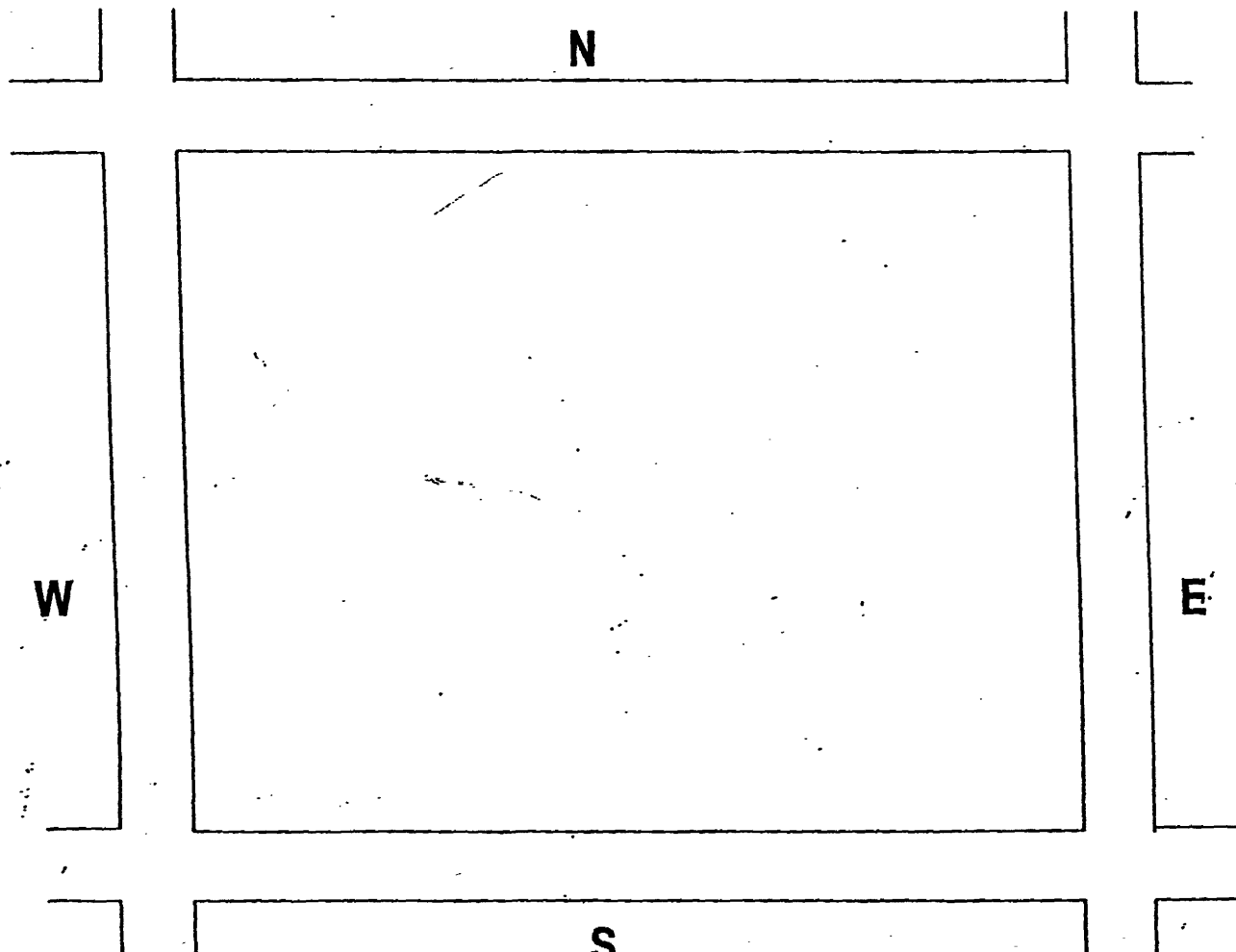
(Owner's Signature)

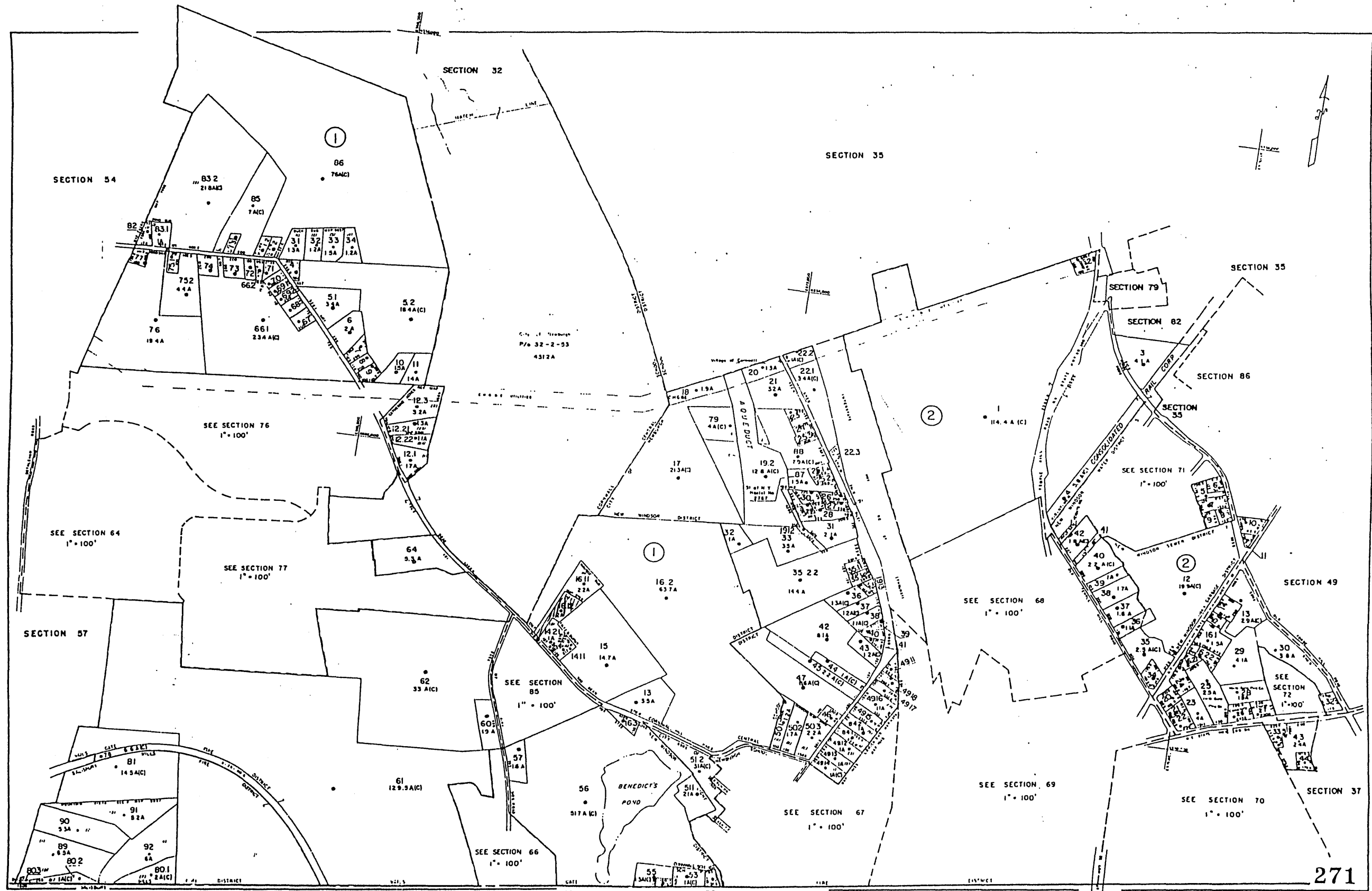
(Owner's Address)

PLOT PLAN

NOTE:

Locate all buildings and indicate all set back dimensions. Applicant must indicate the building line or lines clearly and distinctly on the drawings.





271

AERO SERVICE
 100 N. 4th St.
 New York, N.Y. 10013
 FOR TAX PURPOSES ONLY
 NOT TO BE USED FOR CONVEYANCE

| LEGEND | | | |
|-------------------------|-------------------|--------------------|---------------------|
| STATE OR COUNTY LINE | ZIP PLAN LOT LINE | 725 MAP BLOCK NO. | ZIP PLAN BLOCK NO. |
| LOT OR SUBDIVISION LINE | SECTION LINE | 725 MAP PARCEL NO. | ZIP PLAN PARCEL NO. |
| BLVD. & SECTION | WATER | AREA | STATE OR COUNTY |
| SPECIAL BLVD. | WATER | DIMENSIONS | COUNTY HIGHWAYS |
| PROPERTY LINE | WATER | | TOWN ROADS |

TOWN 54 OF 52 CORNWALL
ORANGE COUNTY-NEW YORK
 Photo No. 15-46, 1-343
 Date of Photo: 3-1-91
 Date of Map: 2-24-91
 Date of Revision: 3-1-91
 Scale: 1" = 400'

TOWN OF NEW WINDSOR
 Section No. 65

**ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK**

In the Matter of the Application for Variance of

Frank Maurice,
Applicant.

#99-42

**AFFIDAVIT OF
SERVICE BY
MAIL**

STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, Windsor, N. Y. 12553.

That on 01/12/00, I compared the 11 addressed envelopes containing the Public Hearing Notice pertinent to this case with the certified list provided by the Assessor regarding the above application for a variance and I find that the addresses are identical to the list received. I then mailed the envelopes in a U.S. Depository within the Town of New Windsor.


Patricia A. Barnhart

Sworn to before me this
___ day of ___, 19__.

Notary Public



Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (914) 563-4631
Fax: (914) 563-4693

Assessors Office

October 18, 1999

(12) - Less (1) New Windsor

Michael Reis, Realtors
P.O. Box 472, 77 East Main St.
Washingtonville, NY 10992

RE: 65-1-16.12
Owner: Elaine Maurice

Dear Mr. Reis:

Please be advised that the attached list of properties within five hundred (500) feet of the above referenced property.

The charge for this service is \$25.00, minus your deposit of \$25.00.

There is no further balance due.

Sincerely,

L. Cook

Leslie Cook
Sole Assessor

/cad
Attachments

cc: Pat Barnhart, ZBA

Mr. & Mrs. Joseph G. Kryzak
114 Dean Hill Rd.
New Windsor, NY 12553

Mr. & Mrs. Richard W. Thorpe
118 Dean Hill Rd.
New Windsor, NY 12553

Severino & Constance D'Agostino
106 Dean Hill Rd.
New Windsor, NY 12553

Mr. & Mrs. John McCullough
126 Dean Hill Rd.
New Windsor, NY 12553

Hudson Valley Dev. Grp. of New
Windsor
7 Becker Farm Rd.
Roseland, NJ 07068

Town of New Windsor
555 Union Ave.
New Windsor, NY 12553

Mt. Airy Estates Inc.
c/o Knox Village, 2375 Hudson
Terr.
Ft. Lee, NJ 07024

Mr. & Mrs. Joseph A. Martellaro
679 Mt. Airy Rd.
New Windsor, NY 12553

Karen Conques
671 Mt. Airy Rd.
New Windsor, NY 12553

Mr. & Mrs. Michael Gonzo
P.O. Box 753
Highland Mills, NY 10930

Brian R. Byrd & Margaret L. Nye
115 Dean Hill Rd.
New Windsor, NY 12553

Denise M. Horne
109 Dean Hill Rd.
New Windsor, NY 12553

*Pls. publish immediately. Send bill to Michael
Reis Realty.*

PUBLIC NOTICE OF HEARING

ZONING BOARD OF APPEALS

TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

Appeal No. 42

Request of Frank & Elaine Maurice

for a VARIANCE of the Zoning Local Law to Permit:

single-family dwelling with insufficient lot width and street frontage;

being a VARIANCE of Section 48-12 Table of Use/ Bulk Regs. - Cols. D&H

for property situated as follows:

N/S Dean Hill Road, New Windsor

known and designated as tax map Section 65, **Blk.** 1 **Lot** 16.12

PUBLIC HEARING will take place on the 24th **day of** January, **20** 00 **at the**
New Windsor Town Hall, 555 Union Avenue, New Windsor, New York beginning at 7:30
o'clock P.M.

James Nugent

Chairman

By: Patricia A. Barnhart, Secy.

ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE
(This Page is Part of the Instrument)

PRINT OR TYPE: BLACK INK ONLY

Frank Maurice Jr. and Elaine P.
Maurice,
TO
Elaine P. Maurice

RECORD AND RETURN TO:
(Name and Address)

ATTACH THIS SHEET TO THE FIRST PAGE OF EACH
RECORDED INSTRUMENT ONLY.

DO NOT WRITE BELOW THIS LINE

CONTROL NO. 053603 DATE 4/27/88 AFFIDAVIT FILED 19

INSTRUMENT TYPE: DEED ☒ MORTGAGE ☐ SATISFACTION ☐ ASSIGNMENT ☐ OTHER ☐

| | | |
|---------------------|--|---|
| BG20 Blooming Grove | SERIAL NO. _____ | CHECK <input type="checkbox"/> CASH <input type="checkbox"/> CHARGE <input checked="" type="checkbox"/> |
| CH22 Chester | Mortgage Amount \$ _____ | |
| CO24 Cornwall | Exempt Yes <input type="checkbox"/> No <input type="checkbox"/> | MORTGAGE TAX \$ _____ |
| CR26 Crawford | 3-6 Cooking Units Yes <input type="checkbox"/> No <input type="checkbox"/> | TRANSFER TAX \$ <u>E.</u> |
| DP28 Deepark | Received Tax on above Mortgage | |
| GO30 Goshen | Basic \$ _____ | |
| GR32 Greenville | MTA \$ _____ | RECORD. FEE \$ <u>14</u> |
| HA34 Hamptonburgh | Spec. Add. \$ _____ | REPORT FORMS \$ <u>5</u> |
| HE36 Highland | TOTAL \$ _____ | CERT. COPIES \$ _____ |
| MK38 Minisink | | |
| ME40 Monroe | | |
| MY42 Montgomery | | |
| MH44 Mount Hope | | |
| NT46 Newburgh (T) | | |
| NW48 New Windsor | | |
| TU50 Tuxedo | | |
| WL52 Walkill | | |
| WK54 Warwick | | |
| WAS6 Wawayanda | | |
| WOS8 Woodbury | | |
| MNO8 Middletown | | |
| NC11 Newburgh | | |
| PJ13 Port Jervis | | |
| 9998 Hold | | |

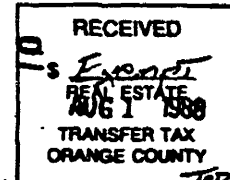
MARION S. MURPHY
Orange County Clerk

by: _____

ORANGE COUNTY CLERK'S OFFICE S.S.

Recorded on the 18th day of
Aug. 1988 at 10
O'Clock A M. in Liber/Film 2980
Dated at page 289 and examined.

Marion S. Murphy
County Clerk



STATE OF NEW YORK, COUNTY OF Orange

On the 27th day of April 1988, before me personally came

Frank Maurice Jr.

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that he executed the same.

WARREN BUCHER
Notary Public, New York
No. 4625363
County of Orange
My Commission Expires 9-30-88

STATE OF NEW YORK, COUNTY OF Orange

On the 27th day of April 1988, before me personally came

Elaine F. Maurice

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that she executed the same.

WARREN BUCHER
Notary Public, New York
No. 4625363
County of Orange
My Commission Expires 9-30-88

STATE OF NEW YORK, COUNTY OF

On the day of 19, before me personally came to me known, who, being by me duly sworn, did depose and say that he resides at No.

that he is the of

the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

STATE OF NEW YORK, COUNTY OF

On the day of 19, before me personally came the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No.

that he knows

to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed his name as witness thereto.

Marginal and Shale Deck
With Covenant Against Coalbed's Acid
Title No.

MAURICE AND MAURICE
TO

MAURICE

SECTION 65

BLOCK 1

LOT 16.11

COUNTY OR TOWN

Town of New Windsor
County of Orange

RETURN BY MAIL TO:

COMMONWEALTH TRUST, P.C.
1000 PINE STREET, SUITE 201
NEW YORK, N.Y. 10014
Do No.

Reserve this space for use of Recording Office.

LIBR 2960 PAGE 292

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

THIS INDENTURE, made the 29 day of April, nineteen hundred and Eighty-eight.
BETWEEN FRANK MAURICE JR. AND ELAINE P. MAURICE, Dean Hill Road, New Windsor, NY

party of the first part, and ELAINE P. MAURICE, Dean Hill Road, New Windsor, NY,

party of the second part,

WITNESSETH, that the party of the first part, in consideration of

Ten (\$10.00) _____ dollars,

lawful money of the United States, and other valuable considerations paid

by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or

successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate,

lying and being in the Town of New Windsor, County of Orange and State of New York, known as Lot #3 as shown on a map entitled "Subdivision of lands of Frank Maurice Jr., dated August 4, 1980 and filed in the Office of the Orange County Clerk on September 29, 1981 as map #5728 and being more particularly bounded and described as follows:

BEGINNING at a point in the northerly line of Dean Hill Road, said point being S 35° 07' 00" E, 31.86 feet from the southwest corner of the above described subdivision and the southeast corner of an AT&T right of way thence the following two courses along lot #4 of the above mentioned subdivision:

- (1) N 35°18'00"E, 508.72 feet, thence;
- (2) S 54°48'30" E, 200.41 feet, thence;
- (3) S 53°19'00"W, 329.23 feet along lands now or formerly of

White, thence the following two courses along lands now or formerly of Dupuy;

- (4) N 54°48'30", 78.44 feet, thence;
- (5) S 35°11'30"W, 239.67 feet; thence;
- (6) N 35°07'00"W, 33.14 feet along the northerly line of Dean Hill

Road to the point of beginning.

Containing 1.162 acres of land.

Subject to and together with rights of ingress and egress and rights to install and maintain overhead utilities through a 30 foot wide easement to Dean Hill Road, said easement centering on the above described courses, #1. Said easement to run with lots #3 and #4 of the above mentioned subdivision.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof.

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises.

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

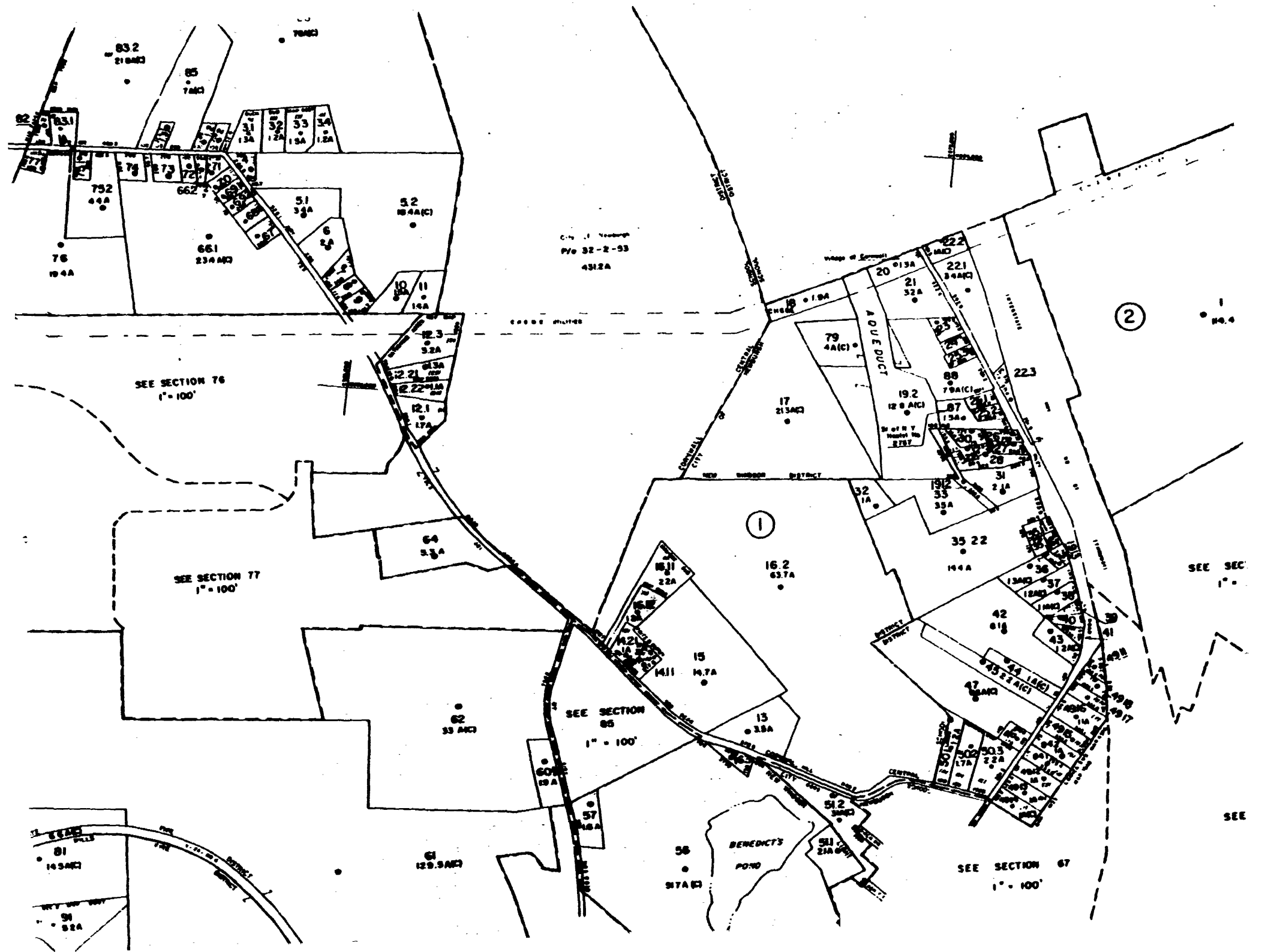
AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvements and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this instrument so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

Frank J. Ham
Elaine P. Maurice



Date 10/18/99, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth DR.
188 N. Drury Lane
Newburgh, N.Y. 12550

| DATE | | CLAIMED | | ALLOWED | |
|-------|------------------------------|------------|-----------|---------|--|
| 10/99 | Zoning Board Mte. | 75 | 00 | | |
| | Misc - 2 | | | | |
| | Aldridge - 3 | | | | |
| | VGA Assoc - 5 | | | | |
| | Maurice - 3 13.50 | | | | |
| | Jennings - 6 | | | | |
| | Johnson - 5 | | | | |
| | Ryan - 4 | | | | |
| | TlaS Assoc - 13 | | | | |
| | Catering-Industrial Park - 4 | 202 | 50 | | |
| | <u>45</u> | <u>277</u> | <u>50</u> | | |
| | | | | | |

MAURICE, FRANK

MR. TORLEY: Request 14,724 square foot lot area, 118.8 ft. lot width and 38.8 street frontage for construction of two family dwelling on flag lot on Mt. Airy Road in an R-3 zone.

Mr. Michael Reis appeared before the board for this proposal.

MR. REIS: We discussed this with some of the population up in that area, okay, and with some resistance to a two family, so we're amending the request for variance to one-family dwelling rather than two family.

MR. TORLEY: It's really going to be a one family?

MR. REIS: Yes.

MR. KANE: Does that have anything to do with the lot area?

MR. REIS: Yes.

MR. BABCOCK: Yes.

MR. REIS: As a result of that, we need a minimum lot width of a hundred feet and required frontage of 60 feet, so we need a variance of 28.8 feet, Mike.

MR. BABCOCK: Yes. Lot width variance of 68.8 and required frontage of 28.8 feet.

MS. BARNHART: Do you want to put the new figures for us, Mike?

MR. BABCOCK: Yes.

MR. KANE: Total lot area.

MR. BABCOCK: It's goes away, it's big enough for a one family.

MR. REIS: This lot was subdivided back in the early

'80's which was a legal situation at the time and as a result of current zoning, we need these variances to construct the single family home.

MR. KANE: Lot number 3.

MR. REIS: Lot number 3, 1.162 acres.

MR. TORLEY: One family, this is one acre, so that's okay.

MR. REIS: Right. Any questions?

MR. KANE: So, this is the driveway coming right up here?

MR. REIS: Thirty foot driveway, right, accesses the lot.

MR. TORLEY: There's another flag lot right next to it?

MR. REIS: Right behind it.

MR. KANE: No problem with the frontage?

MR. BABCOCK: Yes, road frontage.

MR. REIS: That's what we need, the 28.8.

MR. KANE: Got it.

MR. KRIEGER: 28.8 is the lot width, 68.8 is the street frontage.

MR. KANE: No other way around.

MR. KRIEGER: 68.8 is the lot width.

MR. KANE: Correct.

MR. TORLEY: Seventy foot required road frontage and you have 31, right?

MR. REIS: Required is 60 foot as a result of the change to a single family.

MR. TORLEY: Still says 70, one family dwellings, do you have central water and you have water and sewer?

MR. REIS: We have sewer.

MR. BABCOCK: I Just changed that based on those tables, yeah, it's 60, there's central sewer, that changes the requirement.

MR. TORLEY: Is there anything on the flag lot next to it or is that vacant?

MR. REIS: There's an existing four bedroom home behind there, all the lots that are surrounding this have dwellings on it.

MR. KANE: Are you going to be creating any runoff?

MR. REIS: No.

MR. KANE: Cutting down any trees, any water problems?

MR. REIS: There will be some cutting of trees to accommodate the driveway to the house, Mike.

MR. MCDONALD: Make a motion that we set this up for a public hearing.

MR. KANE: Second it.

ROLL CALL

| | |
|--------------|---------|
| MR. MCDONALD | AYE |
| MR. KANE | AYE |
| MR. REIS | ABSTAIN |
| MR. TORLEY | AYE |

Rec'd. TA/28A
Office 11/8/99
(PAB)

R&F.

LAURENCE A. CLEMENTE, P.C.
ATTORNEY AT LAW
154 MAIN STREET
GOSHEN, NEW YORK 10924
(914) 294-9900
FACSIMILE (914) 294-2760

November 3, 1999

Certerified Mail Return Receipt Requested
Town of New Windsor
Zoning Board of Appeals
555 Union Avenue
New Windsor, NY 12553
Attn: Chairman

Re: Appeal of Frank and Elaine Maurice
Appeal No. 42

Gentlemen:

Please be advised that the undersigned has been consulted by Severino D'Agostino and Constance L. D'Agostino, owners of property located at 106 Dean Hill Road, New Windsor, New York 12553. The said premises of Mr. & Mrs. D'Agostino is adjacent to property which is the subject of a variance application scheduled to be heard during the evening of Monday, November 8, 1999.

Mr. & Mrs. D'Agostino are newcomers to the area and purchased in the Town of New Windsor based upon the character of the neighborhood and the present zoning which had been enacted to insure the continued development of the town within the confines of a master plan. It would be disheartening to allow over-building and thus over-burdening of the existing roads, water table, and municipal services.

The application for construction of a dwelling house on a substandard lot would essentially allow more development than would ordinarily have been approved under present zoning. The extent to which the proposed lot requires a variance from the lot width must be scrutinized carefully by the Zoning Board of Appeals so as to prevent an increase in housing density, which would negatively impact on adjoining property owners and town residents, in general. Furthermore, the total lack of frontage along a public road should be examined most carefully by the Board. Allowing a "flag" lot to be approved may set a precedent which would open the flood gates for additional such applications.

Laurence A. Clemente, Esq.
Zoning Board of Appeals
November 3, 1999
Page Two

Proper access to newly constructed dwellings by fire and emergency vehicles will not be sufficiently provided by such approvals.

The undersigned has suggested that Mr. & Mrs. D'Agostino attend the public hearing so that the concerns regarding development of a property directly adjacent to property owned by the D'Agostinos may be addressed and the concerns of all parties involved explained before the Board renders its decision.

Thank you for your careful consideration of the rights of the applicants, as well as the rights of the adjacent property owners to rely on zoning as established by the Town.

Very truly yours,



Laurence A. Clemente

LAC:cc

cc: Mr. & Mrs. D'Agostino

**ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK**

In the Matter of the Application for Variance of

Frank Maurice

Applicant.

#99-42.

**AFFIDAVIT OF
SERVICE BY
MAIL**

STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, Windsor, N. Y. 12553.

That on 10/18/99, I compared the 12 addressed envelopes containing the Public Hearing Notice pertinent to this case with the certified list provided by the Assessor regarding the above application for a variance and I find that the addresses are identical to the list received. I then mailed the envelopes in a U.S. Depository within the Town of New Windsor.

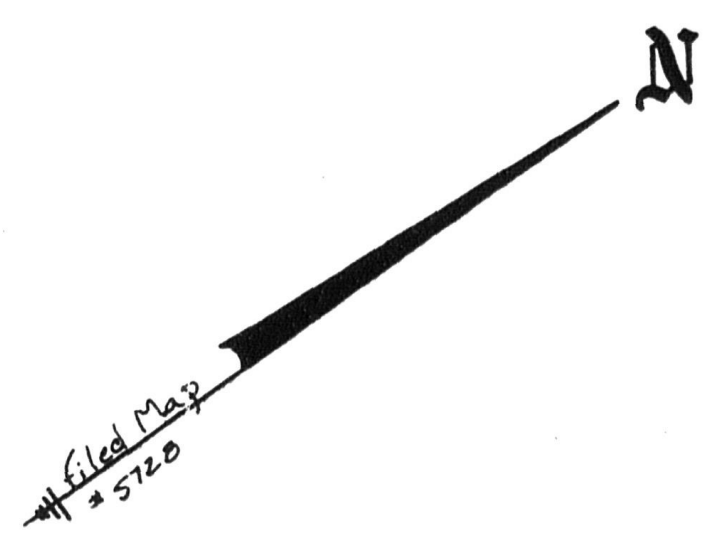
Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this

18 day of October, 19 99

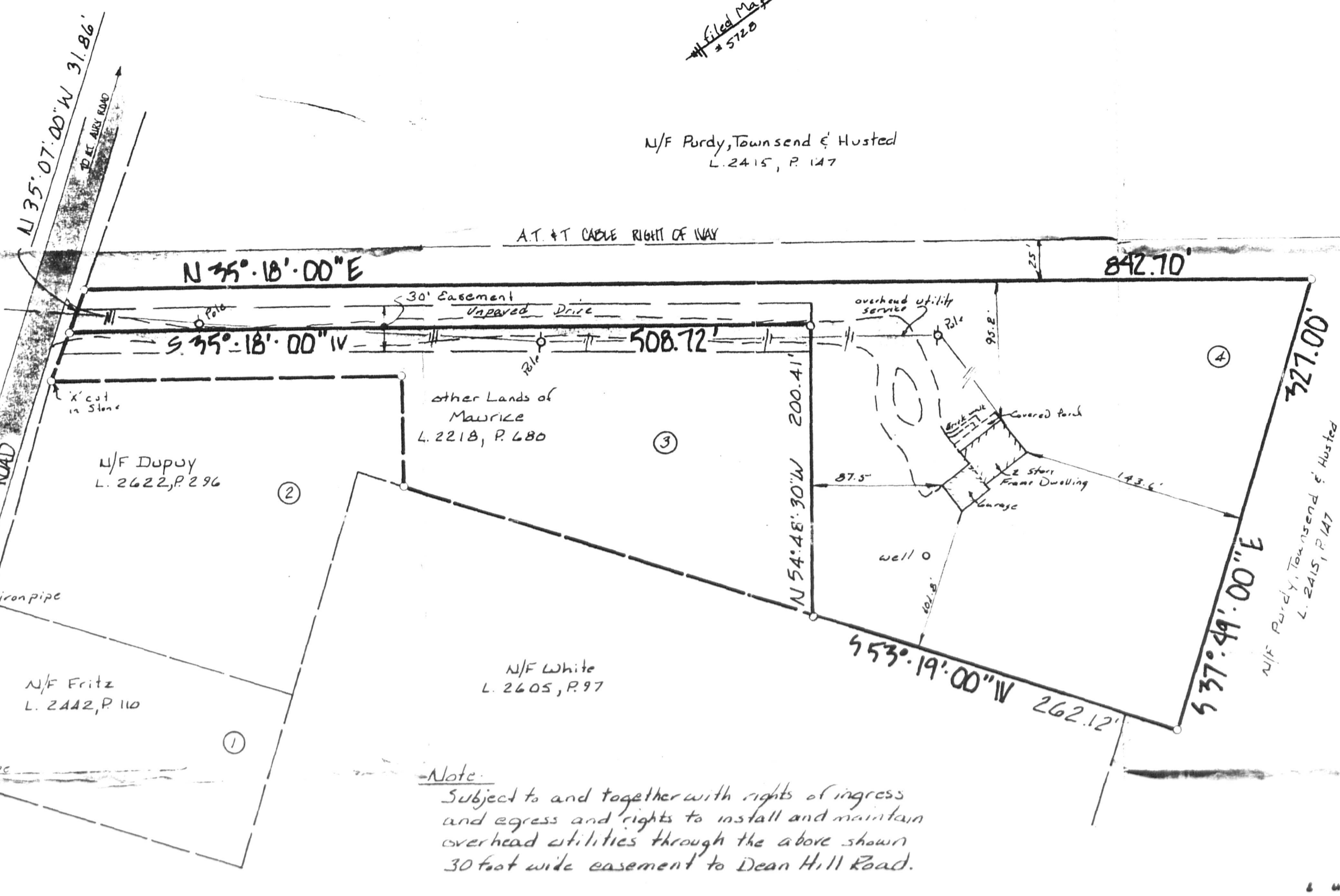
Kathleen A. Fenwick
Notary Public

KATHLEEN A. FENWICK
Notary Public, State of New York
No. 4983025
Appointed in Orange County
My Commission Expires June 17, 2001



N/F Purdy, Townsend & Husted
L. 2415, P. 147

A.T. & T. CABLE RIGHT OF WAY



Note:
Subject to and together with rights of ingress and egress and rights to install and maintain overhead utilities through the above shown 30 foot wide easement to Dean Hill Road.

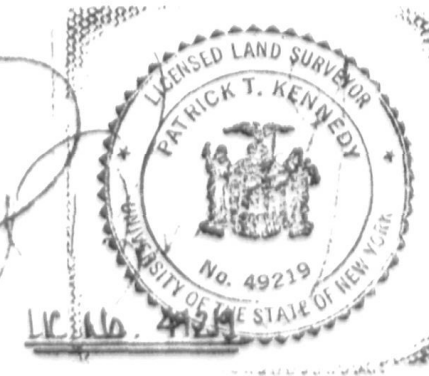
TAX MAP DATA:
SECTION : 65
BLOCK : 1
LOT : 16.1

DEED REFERENCE:
Liber 2218
Page 680

MAP REFERENCE:
1) ORIGINAL PROPERTY LINES WERE PLOTTED FROM A MAP ENTITLED: "SUBDIVISION FOR FRANK MAURICE, JR." DATED: APRIL 28, 1978. PREPARED BY: WASHBURN ASSOCIATES. FILED: MAY 10, 1978. MAP NO: 4498.
2) SUBDIVISION OF LANDS FOR FRANK MAURICE, JR. DATED: AUGUST 4, 1980. FILED: SEPT. 29, 1981. MAP # 5728. LOT # 4.
LOT AREA:
2.240 ACRES

TO FRANK MAURICE JR., ELAINE P. MAURICE,
ULSTER SAVINGS BANK, NATIONAL LAWYERS TITLE INSURANCE
COMPANY CERTIFIED TO BE A CORRECT AND
ACCURATE SURVEY.
FEB. 24, 1988

- 1. Unauthorized alteration or addition to a survey map bearing a licensed land surveyor's seal is a violation of section 7209, sub-division 2 of the N.Y. State Education Law.
- 2. Only copies from the original of this survey marked with an original of the land surveyor's inked seal or his embossed seal shall be considered to be valid true copies.
- 3. Certifications indicated hereon signify that this survey was prepared in accordance with the existing Code of Practice for Land Surveys adopted by the New York State Association of Professional Land Surveyors. Such certifications shall run only to the person for whom the survey is prepared, and on his behalf to the title company, governmental agency and lending institution listed hereon, and to the assignees of the lending institution. Certifications are not transferable to additional institutions or subsequent owner.
- 4. Underground improvements or encroachments, if any, are not shown hereon.



| | | |
|--|-------------|--------------------------|
| PATRICK T. KENNEDY L.S. | | |
| 555 TEAL HILL ROAD, NEW WINDSOR, NEW YORK 12550. | | |
| SCALE 1"=60' | APPROVED BY | DRAWN BY |
| DATE Feb. 24, 1988 | | REVISED March 2, 1988 |
| SURVEY OF LANDS FOR FRANK MAURICE JR. & ELAINE P. MAURICE | | DRAWING NUMBER 80-11A |
| TOWN OF NEW WINDSOR ORANGE COUNTY - NEW YORK | | |